

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-vs-

12-CR-56S

STEVEN A. KNIGHTON,

Defendant.

Proceedings held before the
Honorable William M. Skretny, Buffalo
Courtroom, Robert H. Jackson Courthouse,
2 Niagara Square, Buffalo, New York, on
December 2, 2014.

APPEARANCES:

THOMAS S. DUSZKIEWICZ,
Assistant United States Attorney,
Appearing for the United States.

ANGELO MUSITANO, ESQ.,
Appearing for Defendant.

Michelle L. McLaughlin, RPR,
Official Reporter,
U.S.D.C. W.D.N.Y.

1 THE CLERK: Criminal case 12-56S, United
2 States of America versus Steven Knighton.

3 THE COURT: Okay. The attorneys and
4 Steven Knighton, defendant, is present.

5 Are there any preliminary issues, Mr. Musitano?

6 MR. MUSITANO: Judge, Mr. Duszkiewicz and
7 I discussed a stipulation yesterday, and I asked
8 Mr. Duszkiewicz to remove three words, which he
9 did. Unfortunately, I missed one word that I'm
10 asking him to take out, and it's the word
11 "initially" in paragraph 1, Judge. That's my only
12 request.

13 THE COURT: Your reputation as a wordsmith
14 is tarnished, Mr. Musitano.

15 MR. MUSITANO: Thank you very much, Judge.

16 THE COURT: All right. By the way,
17 Mr. Knighton, is that your sweater or
18 Mr. Musitano's?

19 THE DEFENDANT: He let me borrow it.

20 THE COURT: All right. Government's ready
21 to proceed?

22 MR. DUSZKIEWICZ: Yes, Judge. If we'd
23 have known about the "initially," we probably could
24 have had that taken care of already. But we'll
25 attend to that.

1 THE COURT: Mr. Musitano, defense is
2 ready?

3 MR. MUSITANO: We are, Judge.

4 THE COURT: Mr. Knighton, you're ready?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Jury is being brought up -- or
7 prospective jurors are being brought up. It's
8 anonymous by number. They will be seated as per
9 their numbers, and then we will proceed.

10 MR. DUSZKIEWICZ: The stipulation as to
11 the chemist and the laboratory submissions, so --

12 THE CLERK: Does that decrease the number
13 of witnesses?

14 MR. DUSZKIEWICZ: Yes.

15 THE CLERK: What's the number of witnesses
16 then?

17 MR. DUSZKIEWICZ: I think we listed 30.

18 THE COURT: I'll go through -- there's a
19 large number of witnesses, potential. I'll just
20 mention them as names that may pop up during the
21 course of the prosecution, and we'll from there.

22 MR. DUSZKIEWICZ: The pronunciation of the
23 person who's being stipulated to is Vimislik. She
24 is listed as number 15, Judge.

25 THE COURT: Okay. Thank you.

1 (Prospective jurors seated.)

2 THE COURT: Okay. I think we're about
3 ready. Miss Labuzzetta, if you would call the case
4 please, once again, now that the prospective jurors
5 are seated.

6 THE CLERK: Criminal case 12-56S, United
7 States of America versus Steven Knighton.

8 THE COURT: Okay. And I'll explain a
9 little bit more to all of you this morning what
10 that really means in terms of the type of case and
11 what the case is about to some extent, if you are
12 selected as jurors in this case. Good morning.

13 THE JURY: Good morning.

14 THE COURT: My name is William Skretny,
15 probably saw from the sign. I'm the chief district
16 judge here in the Western District of New York,
17 which you are all a part of, and we'll talk about
18 that a little bit, and we'll get right into the
19 matter of jury selection.

20 I hope to have a jury selected this morning. I
21 will do the majority of the questioning. And I
22 think that makes it easier on just about everybody.
23 All of you represent the cross-section of our
24 community. And we hope to make this a very
25 positive experience. I know it impinges on your

1 daily routine a little bit. For the most part,
2 that sometimes is a bit of a problem, especially
3 during a month like December. But just so you
4 know, I arranged to have the weather the way it is
5 today, okay, so that that wouldn't negatively
6 impact on your desire to become a juror in this
7 particular case.

8 And we will move expeditiously through things.
9 If everything goes according to plan, roughly in
10 two or three hours we should have our jury. I'll
11 work you hard so we get through that process.

12 We use a system that's called the struck jury
13 system. And that proceeds in rounds of the
14 exercise of challenges to those of you that have
15 the designated numbers. I know it's a little bit
16 difficult to get used to the numbers that you have.
17 Some numbers are brighter and bigger than others.
18 Like number 26, I don't know, number 21, those
19 numbers are larger. That has no particular
20 significance. You know, we probably borrowed those
21 numbers from another courtroom or something along
22 those lines.

23 But you're about to undertake very serious
24 business, but, you know, it's a small part of the
25 civic duty and responsibility I think that we all

1 share and we all have. I mentioned that you
2 represent the cross-section of the community, and
3 you do, and that's what our jury system is all
4 about.

5 I had the privilege of just coming back from
6 Argentina, which was not really rough duty, as you
7 can imagine. But I did speak to professors and
8 judges and business people and prosecutors and
9 defense lawyers about the merits of our jury
10 system. And you may or may not know, but we
11 basically conduct about 95 percent of all of the
12 jury trials in the free world right here in the
13 United States.

14 We have a lot of trials in this district. In
15 federal court there are a 94 districts. We are one
16 of those 94, and that involves the entire United
17 States. And we are the seventh busiest district in
18 the country. And, in part, I think that's because
19 we are a border location. We're part of, you know,
20 agriculture belt, we're part of an old rust belt of
21 manufacturing. All these matters factor into the
22 volume of cases that are in our particular court.

23 Our jurisdiction covers about 3 million people.
24 I think it's roughly 12,000 square miles. Our
25 borders run from Canada to Pennsylvania on the

1 west, Cattaraugus County on the south, and then as
2 far east as almost Syracuse. So it's a rather
3 large district, but a manageable district.

4 All of you come from 8 of the 17 counties that
5 comprise our federal district. And who made the
6 divide where it is, I don't know, but, the other
7 nine counties usually are the ones that are
8 assigned to our Rochester courthouse. And they
9 draw jurors in Rochester from nine. We draw jurors
10 from eight.

11 And, you know, I mentioned earlier Argentina,
12 and the reason why I said that is because that
13 country has a constitution that is virtually
14 identical to ours. It's almost verbatim. And that
15 constitution was put in place about 75 years after
16 ours. And their constitution guarantees the jury
17 trial right, as we do. Under Article 3, Section 2
18 of our Constitution, the jury trial right is
19 guaranteed to individuals who are defendants in
20 criminal cases. The Seventh Amendment to our
21 United States Constitution guarantees a jury trial
22 in civil cases.

23 And the one difference though in the
24 constitution in Argentina is that the jury trial
25 right was subject to enactment by Congress. And I

1 did speak to the Congress as well when I was down
2 there. But, much like ours in this country,
3 there's not always a lot that gets done in a timely
4 fashion. I don't mean that to throw stones at our
5 system of government, but our forefathers, I think,
6 wanted it that way, because they created two
7 houses, and Congress and the Senate, and that was
8 to make sure that things did not get done so fast
9 that there was not ample time to study it, to take
10 care of it, to get all the wrinkles out. It
11 doesn't always work, because sometimes what happens
12 is a stalemate rather than getting action that
13 maybe should take place, but for political reasons
14 it doesn't.

15 In Argentina they haven't enacted the
16 constitutional guarantees of the jury trial yet.
17 And one of the things that we talked about in our
18 panel discussions was the importance of having 12
19 members selected from the community asked to make
20 the decision. Because it's less likely, I think,
21 under that scenario, that utilizing the common
22 sense, the experience, the intelligence of the 12
23 members selected that you're less likely under that
24 scenario to make a mistake. If a judge controlled
25 it, I mean there's more chance that one person

1 makes an error in judgment or decision than with 12
2 individuals.

3 But the process requires a commitment from
4 those of you that are selected that you're willing
5 to put aside biases and prejudices and follow the
6 law that is given to you. That's a principle. The
7 other part is that you respect each other's points
8 of view. Because in order to benefit from the fact
9 that 12 of you are making a decision, it really is
10 critical that the individuals feel free to express
11 their respective points of view, their
12 recollections, without fear of being looked down
13 upon, or without fear of maybe people being
14 critical. It really has to be an open process.
15 And that's why it works so well.

16 Because, you know, I'm really a proponent of
17 the jury system. It works. And I know it's an
18 imposition on all of you, to some extent when
19 you're selected to sit. This case will take
20 approximately a week is what we're targeting. We
21 won't start until Thursday of this week. We'll get
22 the jury selected today. And then we'll start with
23 opening statements on Thursday. And, you know,
24 I'll make sure -- the attorneys have worked hard to
25 get the case ready, so there's likely to be very

1 little delay. Once we get started we really move
2 the case along.

3 But if you're willing to respect each other and
4 understand why 12 of you are assembled, the system
5 really works well. And it takes respect for the
6 system and respect for each other to make it work
7 as it should. And, you know, that's one of the
8 points of view that I expressed when I was recently
9 talking in Argentina.

10 And, you know, it goes back to what one of our
11 forefathers said, Thomas Jefferson, a long time
12 ago, said that jury service is probably the most
13 important of all civic duties and responsibilities,
14 even more important than the right to vote in a
15 general election. And, you know, I didn't really
16 understand why that was said, but I do have an
17 appreciation for that now. But if you think about
18 it, 12 of you will be casting a vote. The system
19 requires an unanimous vote. But your vote is very
20 important, because it's one of 12.

21 You vote in a general election, you're one of
22 how many million in the state of New York or in a
23 national election, so it's diluted a little bit.
24 But that's why I think the system is as important
25 as it is, and that you should understand how

1 important your service is. And we're asking you to
2 make that small contribution here in federal court
3 for the short period of time that we're going to be
4 engaged in this particular trial. It's very
5 important. It's very important to both sides.

6 It's a criminal case. And the government
7 brings the case against an individual defendant,
8 and basic rules apply. The individual who is
9 called a defendant has the presumption of innocence
10 that attaches to him or to her. In this case it's
11 a him. And the individual is a gentleman by the
12 name of Steven Knighton, K-N-I-G-H-T-O-N.

13 And the government is the United States, the
14 prosecutor. You'll meet the individuals who will
15 be a part of the adversarial process, the defense
16 lawyer and then the prosecutor.

17 But it's a time-tested system, and as
18 individual jurors, you have a responsibility to be
19 with us and concentrate to the fullest extent
20 possible, and to carry out your responsibilities
21 according to the rule of law. And I'll talk about
22 that a little bit later as we go through the
23 process. Because bottom line is, one, we're going
24 ask you to use your common sense, your experience,
25 and your intelligence in making the decision in

1 this case. We're going to ask you to do it
2 responsibly.

3 We're going to emphasize for you the fact that
4 you are the judges of the facts. That's the job of
5 a jury is to resolve the fact issues. My job is to
6 give you the law. I'm the judge of the law, and
7 then I resolve, like an umpire. I make the calls
8 during the course of the trial when there are
9 objections by the lawyers.

10 Federal court is kind of an interesting place.
11 And, you know, I'm glad that none of your faces
12 seem to be all that familiar. But, you know, we
13 handle all kinds of cases, criminal, civil. We do
14 patent law. We do ERISA law. We do every type of
15 federal civil case that you can think of that
16 involves a law of the United States. And then
17 there are the criminal laws of the United States
18 that run the gamut from financial crimes, to
19 pornography cases, to drug cases, to racketeering
20 cases, just about anything that has what we call an
21 international interstate connection, and that gives
22 us jurisdiction here in federal court.

23 Local crimes are handled by the city courts and
24 the state supreme courts and the county courts.
25 But we do cases that have a national jurisdictional

1 basis. Those are the ones that are federal cases.

2 So, the long and short of it is, we're a busy
3 court. We need your help. We're going to get
4 started with jury selection at this point in time.
5 And if -- if you have any questions as we go
6 through this, you will be given the opportunity to
7 ask me those questions.

8 I think you all saw a movie, or at least a
9 video in terms of an indicator of what you can
10 expect here in this process today. The questions
11 will not be intrusive. The purpose of the
12 questions -- and I'll refer to you by number -- is
13 simply to give the attorneys and Mr. Knighton an
14 opportunity to make a decision as to whether or not
15 you will be selected as one of the 12 jurors, and
16 there will be two alternates that will sit in this
17 particular case. So it's not an intrusive process
18 at all.

19 You will get a sheet that will key you into the
20 information that we want to hear from you. That's
21 very limited. I think you saw the list of
22 questions. They're not very difficult. They're
23 just basic informational questions, and then we'll
24 go from there.

25 I'm going to ask the questions. And the

1 questions will be geared to your ability to sit in
2 this case for the time period that we're involved
3 in, which is roughly a week from this Thursday.
4 And as of this point, you don't know, I don't
5 think, anything more than the name of the case.
6 And if, as things develop, you think you know
7 something or somebody that's associated with this
8 case, just raise your hand, and I'll acknowledge
9 that, and we will talk about whether or not that in
10 any way makes it uncomfortable or difficult for you
11 to serve as a fair and impartial juror in this
12 case. And that's what we're talking about, being
13 fair, being impartial in a case that's very, very
14 important to both sides.

15 If you raise your hand when I ask a question,
16 I'll acknowledge that or that will indicate that
17 your answer is yes. Sometimes we can just move on.
18 If you don't raise your hand, then that's an
19 indication that it's not a problem response-wise to
20 the question, and we can move on from there.

21 I'll be addressing my questions principally to
22 those of you that are in the jury box to start
23 with. But all of those -- all of those, I guess
24 the first 32, because we're going to include the
25 first 32 in my questioning. That's part of the

1 number that we start working with so we can work
2 from there to get into the final 14, including the
3 alternates. It's part of the system that we use.

4 Those of you beyond that that are mostly seated
5 in the gallery, just pay attention. And you don't
6 have to raise your hand or you don't have to
7 discuss things until we call you in to the first 32
8 seats. And my question, when we replace somebody
9 is simply, have you been listening to the questions
10 and the answers? Is there anything that you want
11 to call to my attention before we get down to final
12 decision making? That way I don't have to go
13 through each and every question that I've already
14 asked if we need to replace one of the numbered
15 individuals in the first 32 seats with those of you
16 whose numbers run to about 55 here today. Okay.

17 You know, I mentioned to you that the questions
18 are perfunctory questions, they're basic questions.
19 If, by chance, anything makes you uncomfortable and
20 you want to talk with me, you can come up to the
21 bench. I've only had that happen a few times in
22 the 25 years or so that I've had trials and
23 presided over trials. And that might make it
24 easier for you. You can relax a little bit more if
25 you feel that it would be uncomfortable for you to

1 answer any of the questions that I'm asking.

2 Most of my questions will be directed to you
3 collectively. But if you need to individualize it,
4 just raise your hand, and we'll talk to you little
5 bit more about it.

6 You'll get to see the same people every day
7 that you're here. Mary Labuzzetta is my courtroom
8 deputy. She manages the cases for me, and she
9 organizations, essentially, this jury selection
10 process.

11 Michelle has a tough job. Michelle is my court
12 reporter. She takes down everything verbatim. So
13 every once in a while when I'm talking too long and
14 running on, she'll give me the evil eye, and I know
15 enough to kind of be quiet and move on from where
16 I'm at. But it's a tough job to take everything
17 down.

18 So when we get to you we have a handheld
19 microphone. Chris, our CSO, usually handles that.
20 He will bring it over to you. You can speak into
21 the microphone, the handheld. Please be as concise
22 as you can. I know some people have lived a
23 lifetime to get ahold of a microphone in a public
24 forum setting. So we're going to ask you to kind
25 of temper your desire to make a mark on history by

1 filibustering or whatever it might take with the
2 microphone. I think you get the message. Just be
3 as concise as you can. Keep your voice up so that
4 we can all hear, and then we'll move on from there.

5 Chris, I mentioned him a couple of times. He's
6 one of our court security officers. And they're
7 all over the place in the building. It has nothing
8 to do in particular with this case. But ever since
9 9/11, security has been enhanced in our courthouse
10 buildings. It should make you feel more
11 comfortable, but you should not take it personally.
12 Every day in and out, whether there are trials
13 going or not, we have court security officers in
14 uniform, marshals, other types of security
15 throughout the building. We have a dog that goes
16 through, and we make sure that everything is
17 copacetic and as safe as we can possibly make it.

18 The security officers wear the blue blazers,
19 the white shirts, the striped ties. Just so you
20 know, they're clip-ons, and that's another security
21 precaution that we have implemented in the
22 courthouse. And so you'll see some familiar faces.

23 I tell the attorneys, by the way, not to
24 discuss matters with you. They're basically
25 friendly. I used to say harmless, but I'm not so

1 sure sometimes. But they are, they're harmless.
2 They'll say "good morning," "good afternoon,"
3 whatever the occasion might be, but they're not
4 supposed to speak with you at length, because that
5 runs the risk of somebody thinking there might be
6 partiality involved. You know, somebody will say
7 well, that juror spoke longer with that lawyer than
8 some other lawyer. We want to safeguard against
9 that. Because the appearances are often important
10 as well.

11 So please don't hold it against either side in
12 this particular case. Those are my instructions,
13 and we want you to be fair to both sides, because
14 there's a lot at stake in a case like this.

15 Before I go further, though, I know you're
16 somewhat comfortable now. I'm going to ask you to
17 stand because we have to administer the oath, and
18 then I can proceed with the questioning.

19 (Oath administered.)

20 THE COURT: Okay. And I know
21 Miss Labuzzetta did get the right oath this time.
22 We have about three or four different oaths. I
23 think once we had the jury stand, and she gave the
24 oath of citizenship. But she's corrected that now,
25 so we're on track.

1 Okay. I've told you what the name of the case
2 is, right? United States versus Steven Knighton.
3 Trial, approximately one week. And I'm hoping that
4 we can move through it without delay. We will
5 start at -- every day we'll try to start at
6 9:00 o'clock. There might be a day where we start
7 earlier, but we'll end earlier. I'll give you
8 notice in advance so you can plan your schedules
9 accordingly.

10 Keep in mind that when we start, we need
11 everybody here. We cannot go through a day or a
12 part of the day without one of the 12 jurors
13 missing. I mean, it just -- everybody has to be
14 here. You all have to hear all of the evidence.
15 So please try to be prompt. We'll try to start
16 promptly. We'll try to get you out of here in time
17 so you don't run into any undue delay in getting
18 back to your respective homes.

19 As far as your personal schedules are
20 concerned, let me ask the first 32 of you that.
21 Does anybody have any type of serious matter
22 schedule-wise, business or personally that would
23 make it impossible for you to serve as juror in
24 this case for the next week or so?

25 Number 17. Once second, I'll get you the

1 microphone.

2 PROSPECTIVE JUROR: I own my own business
3 on Niagara Falls Boulevard, which it's owned and
4 operated, and right now closed with six employees
5 waiting for me to open the doors. I work there 60
6 hours a week. I got a lot of schedule -- I wrote
7 everything down for you if you want to review it.

8 THE COURT: All right. It can't open
9 without you, is that what you're saying?

10 PROSPECTIVE JUROR: I'm the only one with
11 the key and the alarm code.

12 THE COURT: What kind of business is it?

13 PROSPECTIVE JUROR: It's an after-market
14 12-volt audio. It's a shop. Remote starters, car
15 alarms, tints. Pretty much anything
16 vehicle-related.

17 THE COURT: Okay. You must have some
18 backup, though, right?

19 PROSPECTIVE JUROR: No. I bought my
20 partners out ten months ago. I've been in the
21 market for somebody to help me out, but -- anybody
22 need a job?

23 THE COURT: All right. We don't usually
24 get that offer. But I didn't see any hands go up.
25 Maybe there is. So it won't open today unless

1 you're there?

2 PROSPECTIVE JUROR: Right.

3 THE COURT: I'll tell you what I'll do,
4 I'll let you go today, but keep in mind -- I can't
5 let you go permanently. You will be called back in
6 the next group, I think, of series of trials. When
7 you get your notice, you have to make arrangements
8 somehow to have somebody open up the business. So
9 I can't have six people out there freezing today.

10 I'll let you go today. You will get noticed.
11 You won't get excused unless you go through the
12 process, so I'll let you go today so you can get
13 your employees together.

14 PROSPECTIVE JUROR: Thank you.

15 THE COURT: All right. You're welcome.

16 Chris, number 30, please.

17 PROSPECTIVE JUROR: I have final exams at
18 UB all next week. So they can't really reschedule
19 them all, because they're very limited time.

20 THE COURT: For that reason, I'll let you
21 go. But understand you'll be called for the series
22 of trials, and that should be after your exam
23 period, okay?

24 PROSPECTIVE JUROR: Yep.

25 THE COURT: Okay? Thank you.

1 THE CLERK: That's 30?

2 THE COURT: Yes. Let's replace number 17.
3 Anybody else?

4 Let me just ask this series of questions,
5 though, quickly.

6 Does anybody have any difficulty understanding,
7 reading, or writing the English language?

8 We're just talking about the first 32 right
9 now. All right.

10 Does anybody have any difficulty hearing at
11 least me right now? Because basically you'll hear
12 the attorneys using the microphones, the same audio
13 level should be constant throughout the trial.
14 When we have witnesses, the microphones will pick
15 up approximately at the same audible -- audibility
16 level that I'm at.

17 If you have difficulty, we can accommodate you,
18 because we have wireless headsets. But if there's
19 a heightened hearing problem or a sight problem or
20 a language problem, let me know that right now, and
21 we'll see if we can address it.

22 Okay. All 32 are pretty good. Let's fill 17
23 and then 30, please.

24 THE CLERK: Juror number 33 will now be in
25 seat 17.

1 THE COURT: We're working you pretty hard.
2 I know you came into the well area first, and we
3 sent you back to the seats, and now we've got you
4 back in here. The floor area is called the well
5 area, so we have number 33 in seat 17. And then
6 we're going to replace number 30 with --

7 THE CLERK: Juror number 34 will now be in
8 seat 30.

9 THE COURT: Good morning.

10 PROSPECTIVE JUROR: Good morning.

11 THE COURT: Thank you. Everybody
12 reasonably comfortable? Okay. Both of you I think
13 have been listening, right, to my comments so far,
14 my questions. Do either of you have any health
15 issues or hearing issues or language issues that
16 would make it difficult for you to serve as juror?

17 Okay. Okay. Let me ask you this kind of an
18 add-on question. Sometimes there's a lot of --
19 there might be a matter or two --

20 (Off the record discussion between the
21 courtroom deputy and the Court.)

22 THE COURT: While we're working on this --
23 the name is okay?

24 All right. If there are any personal or
25 business issues, like the gentleman that was number

1 17, he had a particular issue today, all right,
2 with his employees and the business, so -- there is
3 enough here that I could accommodate him. But if
4 there's a particular business-related issue, or a
5 family issue, or you have a personal matter that is
6 so pressing on you that you feel you just can't
7 function normally, if there's anything like that,
8 before we go further, let me -- is there anybody
9 that feels he or she could not function normally as
10 a juror if you were selected under -- because of
11 those kinds of conditions or situations?

12 Okay. All right. Let me tell you now a little
13 bit more about this case. It's a one-count
14 indictment. All right. And an indictment is a
15 piece of paper. All right. It basically is a
16 document that puts an individual, who is known as a
17 defendant, on notice of what charge or charges he
18 faces.

19 And, you know, the right -- to my right is
20 where the defense lawyer and the defendant sit.
21 That's the way it traditionally has evolved. The
22 government's attorney and the government's case is
23 presented from the tables to my left. They're the
24 nearest to the jury box. There's no significance
25 other than their locations are predetermined. It's

1 not like every day you're going to see them at
2 different tables. Plaintiffs, government's
3 attorneys are nearest the jury box. The defense
4 lawyers and defendants are a little further away.
5 But that's basically the logistics for every trial.

6 The indictment is not evidence at all. All
7 right. It's simply a statement of charge or
8 charges. In this case, it's a one-count
9 indictment. It goes back to a period of time
10 between January and March of 2009, so we're talking
11 about five years ago.

12 The charge itself is what we call a conspiracy
13 charge. This is a drug case. It's a conspiracy to
14 possess with the intent to distribute and to
15 distribute a substance that's called a controlled
16 substance. It's a prohibited substance under the
17 law, and that's cocaine. So that's the charge.
18 All right. That violates the federal drug law in
19 this case. And you'll find that law in Title 21,
20 Section 846.

21 Now, what I want to impress upon you also is
22 that those of you that are selected as jurors --
23 you've heard me mention common sense, experience,
24 intelligence, okay? You apply that to what you
25 hear in the courtroom, the four walls of this

1 particular courtroom. You don't go beyond that.
2 All right. You don't discuss the case. You don't
3 go to social media. You don't go to the Internet.
4 You don't go to Facebook. You don't do independent
5 research. You don't go to where the evidence might
6 indicate the event or events took place.

7 You will be given every single thing that you
8 need in this trial to make a decision from what was
9 presented or not presented as evidence in this
10 case. All right. You decide the case on the
11 evidence, whether it satisfies the government's
12 burden of proof beyond a reasonable doubt. That
13 will be the standard of law that applies.

14 There are essential elements to the crime.
15 I'll give you those elements, because that's part
16 of my job. I give you the law. I'm the judge of
17 the law. Remember, you are the judges of the
18 facts. So you get everything. You determine,
19 unanimously, has the government proven its case
20 beyond a reasonable doubt? We'll talk about that a
21 little bit more. It's not beyond all doubt. It's
22 beyond a reasonable doubt.

23 The defendant in this case, Steven Knighton,
24 you'll get to meet him in a second. But the
25 defendant is presumed innocent, which means he has

1 no burden whatsoever. It's the government's burden
2 to prove the case. Yet a defendant, in every case,
3 his attorney or her attorney can be proactive. The
4 attorney can question witnesses, challenge the
5 evidence, put on a defense. Has no obligation to
6 do any of that. But the obligation is essentially
7 for the defendant to be in the courtroom, and for
8 the government to present its proof, and then we'll
9 see how that works out in the end. You weigh the
10 evidence. You decide the case on the basis of is
11 the evidence sufficient beyond a reasonable doubt
12 or not.

13 The presumption of innocence never leaves the
14 defendant from start to finish. Mr. Knighton's
15 presumed innocent. We ask you not to make any
16 judgment on anything you hear until you get
17 everything that's presented to you. Because, I
18 mean, logically, common sense, all right, it
19 controls. It should predominate in a case -- in
20 every jury trial.

21 And, you know, you might hear something one
22 minute, the next minute something's added to it or
23 subtracted from it, and so things change as
24 evidence is introduced. That's why we instruct you
25 and ask you please to avoid any media, whether it

1 relates specifically to this particular case -- and
2 I don't think there's been anything in the media to
3 date about this case.

4 Or does anybody think he or she has heard
5 anything about the case United States versus Steven
6 Knighton?

7 Okay. I don't think there's been anything. We
8 have a resident reporter, all right, and that
9 reporter comes in and out of the courtroom.
10 Sometimes there's a substitute reporter, and he or
11 she might do a piece on the news or in the
12 newspaper. And we tell you to try to avoid that,
13 and the reason for that is basically the
14 common-sense element that we've been talking about.
15 A reporter may come in, hear five minutes or ten
16 minutes or fifteen minutes worth of testimony, have
17 an impression from that testimony. But it may well
18 be different from yours because you've heard all of
19 the evidence, everything a witness says, all the
20 documents that may be introduced, and then you have
21 to weigh all of that. And a first impression may
22 not be the final impression. So, please, defer
23 making any decisions or determinations until all of
24 the evidence is in to see if the government's met
25 its burden of proof beyond a reasonable doubt.

1 Does anybody that feel he or she cannot do
2 that? That's a basic procedure that we have to
3 follow, that you have to commit to, that you keep
4 your minds open, wait until all the evidence is in,
5 and then determine as part of the full jury of 12
6 whether or not the government has met its burden of
7 proof beyond a reasonable doubt. Anybody feel that
8 he or she cannot do that?

9 Okay. The evidence has to be competent
10 evidence. It has to be admissible evidence. That
11 will be part of my job. I'll make the rulings on
12 any objections. And the attorneys have the
13 obligation to make objections at times when they
14 feel that it's appropriate.

15 The case is not going to be decided, and should
16 not be decided, on the attorneys. Whether you like
17 them or not, that should be of no consequence.
18 Those are factors that are not permitted for you to
19 consider, whether you like somebody, whether you
20 like me or not, whether you disagree with the
21 rulings, that's not important. And the reason why
22 it's not important is because it's not competent
23 evidence. You must decide this case on the basis
24 of competent evidence, whether there's enough or
25 not beyond a reasonable doubt.

1 Let me introduce you. You've heard me kind of
2 build. The suspense is building up. I know I can
3 see in your faces that each one of you are saying
4 who are those guys this courtroom? So, I want to
5 impress on you, we're talking serious business,
6 right? And I don't want to make it -- sometimes
7 serious can be a deceptive term. But if you take
8 the plain meaning, you know why you're here. Very
9 important matter to both sides, and we'll leave it
10 at that.

11 But, we may have a light moment or two during
12 the course of the trial, but please don't interpret
13 that as having any bearing on the seriousness of
14 the case. We want to get started. We want to get
15 it finished. We want to be fair to both sides. We
16 want to do everything that we can to make sure that
17 the decision that's rendered by you is separate
18 from any bias with respect to race, color, creed,
19 national origin, anything along those lines.

20 Let's introduce you to the prosecutor. His
21 name is Thomas Duszkiewicz.

22 Mr. Duszkiewicz, if you want to greet the
23 jurors or prospective jurors.

24 MR. DUSZKIEWICZ: Good morning, ladies and
25 gentlemen.

1 THE JURY: Good morning.

2 THE COURT: Okay. Mr. Duszkiewicz is what
3 we call a prosecutor. He's with the prosecutor's
4 office. That office is the United States
5 Attorney's Office. It has physical plant space one
6 building up north on Delaware from this courthouse.
7 It's actually 138 Delaware Avenue in Buffalo. And
8 it's Mr. Duszkiewicz's duty and responsibility to
9 present the witnesses and the evidence on behalf of
10 the government.

11 Now, keep in mind that both sides are always
12 equals, okay? No side gets to be favored under the
13 law, nor should you favor one side over the other
14 because Mr. Duszkiewicz is a prosecutor, or because
15 there's a defendant or a defense lawyer. Everybody
16 starts at an equal plane. That equal plane being,
17 you know, presumption of innocence, the burden of
18 proof on the government.

19 Nobody benefits from the status of the position
20 that a person may hold. You may think prosecutors
21 are a good thing, good individuals. You may think
22 defense lawyers are good individuals or bad
23 individuals. Prosecutors can be bad individuals in
24 your minds. But it shouldn't weigh in. It should
25 be everybody here is here to do justice. Everybody

1 here starts out at an equal status for the trial.

2 Witnesses, you are to judge on the basis of
3 what they tell you, what you observe from those
4 witnesses. Not who that person is, where that
5 person comes from, what the wealth of that
6 individual is, or is not, or what -- what status --
7 exalted status somebody may have in your eyes.
8 It's a question of do you believe that witness
9 based on the questions and answers and all of the
10 evidence in the case? Everybody is treated as
11 equals under the bar of justice, as we call it, in
12 this particular courtroom. And that's what makes
13 it work. It's a great, great system that you're
14 being asked to be a part of in this particular
15 case.

16 Okay. You met Mr. Duszkiewicz. You probably
17 want to know who that defense lawyer is on the
18 opposite table. And that gentleman is Angelo
19 Musitano.

20 MR. MUSITANO: Good morning, ladies and
21 gentlemen.

22 THE JURY: Good morning.

23 THE COURT: And he has an office in, I
24 think -- is it still 324 Pine Avenue?

25 MR. MUSITANO: Niagara Falls, New York,

1 yes, Judge.

2 THE COURT: All right. And so he's here.
3 He represents the defendant in this case, and
4 that's Steven Knighton.

5 THE DEFENDANT: Good morning.

6 THE JURY: Good morning.

7 THE COURT: Okay. And you know where
8 Mr. Musitano is from. Mr. Knighton is here because
9 he's accused of committing the crime that I
10 mentioned to you that is in the one count of the
11 indictment. But again, presumed innocent. No
12 burden of proof whatsoever on Mr. Knighton.

13 Let me ask you this. You've met the
14 individuals now. Does anybody think you know
15 either one of them, either by reputation, by name,
16 by any association that you may have had in the
17 course of your lives?

18 Okay. I see a couple of tentative hands going
19 up. Chris, we're going to try number 6 first, and
20 then 21, I think.

21 PROSPECTIVE JUROR: Previous to my current
22 career I spent ten years working in the Erie County
23 Central Police Services Forensic Lab. I've
24 testified in Niagara County, have been
25 cross-examined, and I have testified for -- not

1 Mr. Duszkiewicz in particular, but for his
2 contemporaries. And in addition, my -- our sons
3 were in the same cub den. So I'm very familiar
4 with Mr. Duszkiewicz.

5 THE COURT: And you were cross-examined by
6 Mr. Musitano?

7 PROSPECTIVE JUROR: Many, many years ago
8 in Niagara County, yes.

9 THE COURT: All right. So you know what
10 it's like to be a witness?

11 PROSPECTIVE JUROR: Yes. Yes. I have
12 testified in federal, county, city courts, multiple
13 times.

14 THE COURT: Okay. Well, let me ask you
15 this: It's a live experience. Can you be fair and
16 impartial in this case?

17 PROSPECTIVE JUROR: I would want to say,
18 yes. But I have a lot of baggage. I understand
19 too much of what has gone on behind the scenes
20 here. I don't know if I could do that.

21 THE COURT: Well, do you know
22 Mr. Knighton?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Do you know anything about the
25 facts of this case?

1 PROSPECTIVE JUROR: Absolutely nothing.

2 THE COURT: All right. Now, I mean, you
3 have some specific experience. That's been a
4 little while ago, though, right?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: All right. So whatever goes
7 behind the scenes, that's not this case, right?

8 PROSPECTIVE JUROR: Right, that's true.

9 THE COURT: All right. So, I mean, it's
10 up to the lawyers and Mr. Knighton to decide
11 whether or not a juror who tells us about himself
12 or herself, like you are right now, is somebody
13 they would want on their jury. If -- let me ask
14 you this: Would you try to be fair and impartial
15 in decision-making and work with the other jurors
16 if you were selected?

17 PROSPECTIVE JUROR: Yes. As always, I
18 would be impartial.

19 THE COURT: All right. Well, you know
20 what the system is, right? It's no different than,
21 really, what I explained it. You may have some
22 firsthand experience, in some cases bad people, in
23 some cases good people. In some cases you may have
24 been surprised at a verdict, other times not,
25 sometimes disappointed, sometimes elated, fair

1 statement?

2 PROSPECTIVE JUROR: Fair.

3 THE COURT: All right. Would you make
4 your best effort to be fair and impartial here?

5 PROSPECTIVE JUROR: Absolutely.

6 THE COURT: All right. Can you follow the
7 rule, though, that, you know, your experience is
8 your experience. But, you know, we're not -- this
9 case has to be decided on the evidence that you
10 are, as a member of the juror if you're selected,
11 presented with. It's not what goes on in the hat
12 that's behind the scene. It's, has the
13 government's proof satisfied that proof beyond a
14 reasonable doubt standard. Can you do that? Can
15 you apply that?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Okay. It's probably not easy
18 sometimes, right, but it's a part of your
19 experience, fair statement?

20 PROSPECTIVE JUROR: Yes, fair statement.

21 THE COURT: What do you do now?

22 PROSPECTIVE JUROR: Currently I run a
23 laboratory and the safety program at a
24 manufacturing facility in Niagara Falls.

25 THE COURT: What do you manufacture?

1 PROSPECTIVE JUROR: Silicon.

2 THE COURT: Okay. Okay. Well, thank you.
3 I appreciate that. We'll let you stay for a while
4 and see what happens.

5 PROSPECTIVE JUROR: Thank you.

6 THE COURT: Thank you very much. All
7 right. Twenty-one, please.

8 PROSPECTIVE JUROR: I know
9 Mr. Duszkievicz. Our children went to the same
10 elementary and some of them went to the same high
11 school.

12 THE COURT: Mr. Duszkievicz, how many
13 children do you have? Four. Okay. All right.

14 PROSPECTIVE JUROR: So I know of him, but
15 they were never in the same grades, so we're not --

16 THE COURT: Do you have a view about him
17 one way or another?

18 PROSPECTIVE JUROR: No. I'm neutral.

19 THE COURT: Okay. Can you be fair and
20 impartial if you were selected?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Because, Mr. Duszkievicz is a
23 professional, just like Mr. Musitano, is a
24 professional. And we all have personalities and
25 families and the like, and we're here to do the

1 best professional job that we can do. I'm
2 referring to everybody. You all have jobs, and you
3 all have families, for the most part, and we're
4 asking you to view this proceeding divorced from
5 personalities and divorced from the fact that you
6 might know somebody that's related to somebody
7 else.

8 Are you comfortable, if you were selected,
9 knowing that your children knew Mr. Duszkievicz's
10 children, and you of know of him, being fair and
11 impartial?

12 PROSPECTIVE JUROR: Yes, I could be.

13 THE COURT: Okay. All right. Thank you.

14 PROSPECTIVE JUROR: The other thing I need
15 to disclose is that my oldest son passed away last
16 year from a drug overdose. So I feel it's only
17 fair that I let you know.

18 THE COURT: I'm sure it's very traumatic,
19 right?

20 PROSPECTIVE JUROR: That's correct.

21 THE COURT: That would be part of my
22 questions. Since you brought you it up -- and I
23 know that weighs on you. I think you are a little
24 emotional. That being the case, though, this is a
25 drug case. Can you be fair and impartial in a drug

1 case?

2 PROSPECTIVE JUROR: I can be. I just
3 wanted you to know that.

4 THE COURT: Okay. All right. Let me open
5 that up to -- and I extend our sympathies to you
6 for that loss. But, you know, your loss is not
7 this case, and I think you understand that?

8 PROSPECTIVE JUROR: Yes. Yes, I do.

9 THE COURT: Okay. The fact that somebody,
10 like juror number 21, has lost somebody I'm sure
11 she loved a great deal. I mean, we've all read
12 about drug cases and situations resulting from drug
13 overdoses, and, you know, it's not a pretty picture
14 oftentimes. But, again, that's not related to this
15 case. I mean, those types of instances and
16 situations are not this case.

17 And my question is, I mean, we're talking very
18 candidly about the downside of drugs, drug use,
19 drugs abuse, that takes into account all kinds of
20 aspects of obtaining drugs, manufacturing drugs,
21 distributing drugs, individuals conducting
22 themselves and profiting from drugs, and there's
23 violence associated with that.

24 I mean, those are -- you know, we hear
25 terminology like war on drugs, and that usually is

1 associated with law enforcement and political
2 efforts to curb the use and distribution of illicit
3 drugs. I think we're all aware that that is a part
4 of what's going on in this country, and elsewhere,
5 and on the streets, and maybe in our neighborhoods.
6 But that doesn't mean, in any respect, that that
7 involves Mr. Knighton. It has to be proven beyond
8 a reasonable doubt what the charge states in his
9 case, that he unlawfully conspired back in that
10 three-month period approximately in 2009 to possess
11 with intent to distribute and to distribute
12 cocaine.

13 That's one person, one time period. But does
14 anybody feel he or she cannot serve as a juror
15 fairly and impartially just because the case
16 involves drugs? Okay. Everybody's okay with it.

17 Let me ask you this, those of you that the
18 first 32 seats, do any of you have an active
19 role -- we heard, for example, Juror 21 said that
20 her children I think knew Mr. Duszkievicz's
21 children. And in schools there's programs like
22 DARE and other programs that are meant to educate
23 children about the dangers of drugs, and what to
24 look for, and how to properly handle matters
25 relating to drugs.

1 Do any of you take an active role in schools or
2 in organizations or contribute money to
3 organizations that are involved with either the
4 activities to curb drug use, or maybe organizations
5 that take positions publicly and, with proposed
6 legislation, to legalize drugs in this country
7 anybody an active contributor or proponent of
8 organizations, or even yourself. Do you give
9 speeches or anything like that favoring drugs or
10 opposing drugs, or are you part of something that
11 goes on at work or school that makes you more
12 sensitive to the drug issues that face our country
13 at the present time.

14 Is anybody involved like that? Okay. All
15 right.

16 Okay. Once again, the division of labor is you
17 decide the facts fairly and impartially. I will
18 give you the law. And I'll tell you what the law
19 is. And, you know, every day you're going to pick
20 up the newspaper or maybe turn on the television or
21 radio or go to the Internet, and something will be
22 on there about drugs. It may not relate to this
23 case, in particular, but if it has anything to do
24 with drugs generally, drug-related violence, even
25 if it's not this case, don't run the risk of

1 tainting your thinking as far as what your burden
2 is here, what your job is here, to decide this case
3 on the basis of the evidence or lack of evidence
4 alone. So keep that aside for the one week that
5 we'll have you here as jurors.

6 Again, it's going require your setting aside
7 any personal opinions or views or feelings that you
8 have that might, if you will, be, in the abstract,
9 prejudicial. I mean, we all have biases and
10 prejudices, and I think we all will admit that.
11 The one thing that I know we can do, because it's
12 been done all the time by jurors in all of the
13 various cases, they will set aside biases and
14 prejudices, at least for that week that they're
15 asked to be jurors, and really work to be fair and
16 impartial, and that's what we're asking you to be
17 here today.

18 Again, if it's law enforcement people that are
19 witnesses in the case -- and I expect there will
20 be -- I'm going to run through some names of
21 witnesses. You all told me right now that you can
22 decide the case fairly, without bias or prejudice.
23 You'll work at doing that to the best of your
24 ability. Again, is there anybody that feels he or
25 she cannot do that?

1 Okay. I'm going to, once again, reference a
2 number of witnesses. And I know a number of them
3 that may be called are law enforcement witnesses.
4 Makes no difference what positions they hold. You
5 treat them as every other witness, and you view
6 testimony in the context of all of the other
7 evidence that's produced during the course of the
8 trial, if there is evidence. I mean, I don't even
9 know that at this point.

10 I assume you will be hearing from the
11 witnesses. They will produce evidence. I will be
12 hearing what the evidence is in this case along
13 with you. So I don't really know what this case is
14 about. I presided over it to get it ready for
15 trial. But in terms of what the witnesses will
16 say, I don't have any idea. So we'll wait and see
17 in that regard. So there might be evidence on
18 those essential elements. You have to weigh
19 whether it's sufficient beyond a reasonable doubt.

20 The names that might appear in the testimony --
21 it doesn't mean that they are going to be
22 witnesses, but just to make sure that there's
23 nobody here that would make you uncomfortable if
24 you were to be selected, I'm going to read the
25 names that may possibly be referenced during the

1 course of the trial. There's Douglas Davis, Keith
2 Fox, Mary Clark, Lyle Baxter, Ronald Yates, Jose
3 Figueirido, Kathy Smith, Jack Weinerth, Patrick
4 DiPirro, John Poggi, Elliot Boyce, B-O-Y-C-E, Sam
5 Serrano, Scott Griffin, Timothy Ryan, Jackalynne
6 Vimislik, V-I-M-I-S-L-I-K, Jimmie Phelps, Jordan
7 Bonafede, Theanial Thurman, Mike Sliwinski, John
8 Doskocz, D-O-S-K-O-C-Z, Jonathan Ober, Justin Haag,
9 David Filipski, Clinton Calloway, Gene Nanna, James
10 Rensel, Glenn Zawierucha, Z-A-W-I-E-R-U-C-H-A,
11 Shawn Larrabee, John Schuster, William Valerio.

12 Any names that I missed, Mr. Duszkievicz?

13 MR. DUSZKIEWICZ: Judge, not from the
14 witness list. But I'll likely be assisted by
15 Patricia Prawel, who is a paralegal in my office.

16 THE COURT: Yes. And Miss Prawel will
17 probably sit at the table right behind
18 Mr. Duszkievicz. And you'll see that -- those of
19 you that are not in the jury box, there are
20 individual monitors -- well, they're actually
21 monitors in the jury box that are shared by every
22 two jurors. And the evidence will be presented
23 from time to time on those monitors. So it makes
24 it a little bit easier to follow the testimony
25 sometimes in a case. And the paralegal from the

1 U.S. Attorney's Office will be responsible for
2 monitoring and presenting the documents that are
3 competent for you, as jurors, to see in this case.

4 Okay. I told you what the indictment is. Any
5 of those names ring a bell with any of you? Do you
6 think you know any of those individuals?

7 All right. I see a hand, but you're up in the
8 gallery, so hold that in case you're called in,
9 okay?

10 All right. What's going to happen after jury
11 selection, you're going to get the details about
12 the case. All you know, all we know is what I
13 related to you the charge is. It's that charge
14 involving cocaine conspiracy back in 2009 for that
15 approximate two-month period of time. When the
16 attorneys make their opening statements, they can
17 give you the details of what they expect the
18 evidence to show or not. And that's where, you
19 know, the trial actually begins.

20 That's not evidence, because what the attorneys
21 say, what I say, that's not evidence. The
22 competent evidence is what you hear -- the answers
23 of the witnesses, that's the evidence, the exhibits
24 received into evidence. Sometimes there will be
25 stipulations or agreements that the evidence is

1 competent, proper for you to consider.

2 And then there's also a fourth matter that
3 comes into play once in a while, it's called
4 judicial notice. When there's no dispute with
5 respect to a particular matter that, you know,
6 maybe the day of the week or a particular statute
7 that might be involved, I can, what's called,
8 judicially notice it. You can accept that as
9 competent evidence, if you choose to, in your
10 deliberations. And I'll highlight that for you at
11 the appropriate time.

12 But that's all the evidence that there is,
13 answers of witnesses, evidence received, documents,
14 and the like at trial, stipulations, and judicial
15 notice.

16 The defendant in this case, Mr. Knighton, has
17 entered a not guilty plea. And he's presumed
18 innocent. And again, the government has the only
19 burden beyond a reasonable doubt.

20 Okay. You may or may not agree with the drug
21 laws of this country, and whether you do or don't,
22 that should not factor into the decision-making
23 process. And here's why I say that: Because you
24 decide the case on the basis of the evidence or the
25 lack of evidence based on the law that I give to

1 you. The law today is the law that you will be
2 deciding the case on.

3 Whether you believe the law should change or
4 you disagree with the law, that has to be divorced
5 out of what you're being asked to do. Changing the
6 law, that's a job for Congress. And once the law
7 is changed, that will be what somebody is judged
8 by. That's the barometer, that person violated
9 that new law or not. But we're dealing with the
10 law that's on the books today.

11 Does anybody feel that he or she cannot decide
12 the case on the basis of the law that I give to
13 you? That's the oath that you have to take. You
14 take the law as I give it to you without
15 challenging the wisdom of the law or without
16 factoring in how you feel about the law. Is
17 everybody okay with that role?

18 Okay. Terrific.

19 As far as the attorneys are concerned, the U.S.
20 Attorney's Office is the prosecutor's office. Does
21 anybody know any other prosecutor, investigator
22 employee, anybody do business with the United
23 States Attorney's Office here in the city of
24 Buffalo? Or elsewhere?

25 All right. Does anybody know anybody that

1 might work, for example, or do you do any business
2 with Mr. Musitano's office in Niagara Falls?

3 Okay. Does anybody have an attorney in their
4 immediate family that you're very, very close to
5 that practices criminal law in Western New York or
6 that is a prosecutor anywhere in the United States?

7 Okay. All right. I think we have number 7,
8 and is that number 28? Okay.

9 Seven first, please, Chris?

10 PROSPECTIVE JUROR: My first husband, he's
11 deceased. He was an attorney. He was in practice
12 for many years in Indiana, went to UB Law School.

13 THE COURT: And did he practice criminal
14 law?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Did he practice here in this
17 area, too, or not?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Okay. Anything about that
20 experience -- again, I'm sorry for your loss -- but
21 that would cause you to think you could not be fair
22 and impartial in this case?

23 PROSPECTIVE JUROR: No. We really didn't
24 talk about his work. I was raising kids.

25 THE COURT: Okay. How many?

1 PROSPECTIVE JUROR: Two boys.

2 THE COURT: Any of them know

3 Mr. Duszkievicz's kids? Not as far as you know?

4 PROSPECTIVE JUROR: No, sir.

5 THE COURT: Okay. Thank you very much.

6 All right. Number 28, please.

7 PROSPECTIVE JUROR: My brother-in-law, is
8 that considered my immediate family?

9 THE COURT: Sure. It depends, do you want
10 him to be?

11 PROSPECTIVE JUROR: I very much do. He's
12 an attorney, Thomas Casey.

13 THE COURT: What's his name, please?

14 PROSPECTIVE JUROR: Thomas Casey.

15 THE COURT: Thomas Casey. Okay. And he
16 practices, I think, some criminal law, right?

17 PROSPECTIVE JUROR: Yes, he does.

18 THE COURT: All right. And is there
19 anything about that relationship that would cause
20 you to think you would be uncomfortable sitting in
21 this case?

22 PROSPECTIVE JUROR: No. I just want to
23 note it.

24 THE COURT: I appreciate that. The other
25 thing is if you know attorneys and you're close to

1 them, I take it you could follow my instructions,
2 which apply to everybody. Don't discuss this case
3 until it's completed with anybody, family,
4 attorneys, friends, nothing on, I mean, Facebook,
5 the media, can you do that?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: All right. Thank you very
8 much.

9 All right. Is anybody that, at least are in
10 the first 32 seats, had any experience with the
11 government, either a state or federal or local
12 level that is an experience that has made such an
13 impression on you, good or bad, that you could not
14 be fair in this particular case because of that
15 experience? Anybody feel that way that you've had
16 kind of relationship or that kind of experience?

17 All right. Has anybody been the victim of a
18 crime?

19 Anybody here been convicted of crime?

20 Okay. All right. I have two last questions,
21 and we'll start with Prospective Juror number 1,
22 and we'll ask you to take the sheet and kind of
23 work through it, and once we get through 32 of you,
24 we'll be in a situation to start our jury selection
25 process.

1 Does anybody have either a moral or an ethical
2 or a religious view that precludes you or prevents
3 you from rendering judgment involving another
4 individual? You know, sometimes individuals have
5 those kinds of viewpoints that are imposed through
6 religious beliefs, through moral convictions that
7 they just don't want to stand in judgment of
8 another individual. And in this case, that's what
9 you respectively are being asked to do, or will be
10 asked to do, is to pass judgment on someone, but
11 that's based on the evidence or the lack of
12 evidence. It's not personal, but it's applying the
13 rule of law, so to speak.

14 Does anybody feel he or she cannot serve
15 because of any type of belief along those lines?

16 Okay. And then finally, we talked about biases
17 and prejudices, and Mr. Knighton is obviously a
18 dark-complected individual. He's a black man. His
19 race is that. Does anybody feel that he or she
20 would be in any way affected by the race of
21 Mr. Knighton in this case such that you could not
22 be fair and impartial?

23 Okay. All right. Want to take -- let's take
24 15 minutes. We'll start again at 11:15. Everybody
25 has to leave. You have to go with Chris. You can

1 leave things behind because the courtroom is
2 secure. But you can take your numbers with you.
3 We'll get started. We're on track to, I think,
4 wind up pretty much on target. So take a break.
5 We'll start again at 11:15. If anybody has any
6 issues -- and keep in mind, too, if you are
7 selected and you need a break, or if you need to
8 stand and stretch, we can always arrange that.
9 We'll try to be as accommodating as we possibly
10 can. You've been terrific. I really appreciate
11 it. We'll see you in about 15 minutes, okay?

12 (Short recess was taken.)

13 (Prospective jurors seated.)

14 THE COURT: Okay. Thank you, Chris.
15 Ladies and gentlemen, welcome back. Good to see
16 everybody. Hope the break was well-timed for you.

17 Okay. We're going to start now with the
18 answers to the questions on the sheet.

19 Chris, if you could give Juror number 1 --
20 Prospective Juror number 1 the microphone, please.
21 If you just answer the questions, and we'll work
22 right through it. You set the standard for
23 everybody else. How they perform depends how you
24 sound. Go ahead, please.

25 PROSPECTIVE JUROR: My name is -- or my

1 age is 44. I live in the village of Lancaster.

2 THE COURT: Did you get any snow there?

3 PROSPECTIVE JUROR: A little bit, yeah.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR: Own my own home. I
6 currently work for Paychex Incorporated, and I work
7 in our risk management department handling
8 payroll-related penalties for our clients, working
9 with state and federal government trying to
10 mitigate risk and try to help our clients get
11 penalties removed that have been caused by Paychex.
12 I've been there for 14 years, working there for 14
13 years. I have a bachelor's degree in sociology. I
14 am married. My wife works in medical coding claims
15 analyst-type work. We have three children. Our
16 twins are six and our oldest is 12.

17 I've not been in the military. Reading habits,
18 Buffalo News, Sports Illustrated, People magazine.
19 I'm big Dan Brown fan. I love all of his books. I
20 like detective-type books, all the Alex Cross
21 novels, I enjoy those. TV viewing, I like sitcoms.
22 My wife and I spend a lot of time watching some of
23 the Law and Order series, things like that. I'm
24 big in sports, playing any kind of sports with my
25 kids, golf, basketball, things like that. And my

1 oldest son went through Cub Scouts and I was his
2 Cub Scout leader for about three to four years.

3 THE COURT: Okay. Thank you. Couple of
4 questions before you pass on the microphone and the
5 sheet. Your work in risk management, does that
6 involve work with law enforcement?

7 PROSPECTIVE JUROR: No, it does not.

8 THE COURT: Okay. You said with federal
9 and state, though.

10 PROSPECTIVE JUROR: Yeah. I'm the -- I
11 work with the departments of revenue, unemployment
12 offices as far as trying to get details regarding
13 tax returns that maybe my company didn't file for
14 our clients or things like that, payments that were
15 made late. It's not -- does not involve law
16 enforcement.

17 THE COURT: And your wife works with
18 medical claims?

19 PROSPECTIVE JUROR: Yeah. Claims analyst,
20 working with insurance -- working with insurance
21 companies trying to recover money, overpayments in
22 insurance companies may have made to various
23 providers.

24 THE COURT: Okay. Thank you very much.
25 If you would pass that on to Prospective Juror

1 number 2, please.

2 PROSPECTIVE JUROR: My name is Judy
3 Guarino. I live in the village of Depew. I own my
4 own home. I work for Peerless Manufacturing in
5 Orchard Park. I am an accounts receivable manager.
6 I've been there 27 years. Graduated from high
7 school. Am married. My spouse has been retired
8 for over ten years. I have no children.

9 I've never been in the service. Reading
10 habits, the Buffalo News, People magazine. TV,
11 basically lot of the news stations, sitcoms.
12 Outside interests, I volunteer at church, and I
13 don't belong to any clubs or organizations.

14 THE COURT: Okay. Your spouse, before he
15 retired, worked where?

16 PROSPECTIVE JUROR: At John Egan
17 Associates.

18 THE COURT: What is that business?

19 PROSPECTIVE JUROR: That's a law firm.

20 THE COURT: Okay. And what did he do
21 there?

22 PROSPECTIVE JUROR: Basically secretarial
23 work.

24 THE COURT: Okay. And is that a local law
25 firm?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Okay. Do you know the kind of
3 work they did?

4 PROSPECTIVE JUROR: Civil.

5 THE COURT: All right. Do you know the
6 attorneys?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Okay. Okay. Thank you very
9 much. And if you pass that on, please. You don't
10 have to give us your name.

11 Just by the way, keep in mind too, I know we
12 probably all watch televisions and sitcoms and the
13 like, but this is not likely to be like you see on
14 television in the various sitcom programs. We play
15 by a little different set of required rules, and it
16 likely will not be dramatic, so don't be
17 disappointed. Just understand what the proper role
18 should be in a case like this, okay?

19 All right. Number 3.

20 PROSPECTIVE JUROR: I'm 42 years old. I
21 live in Busti, New York, which is in Jamestown. I
22 own my own house. I work at Truck-Lite Company,
23 which is in Falconer, New York. I've been there
24 for 20 years. I'm a payroll accounting clerk, so I
25 help process payroll, do general accounting,

1 entering invoices, stuff like that. I've have an
2 associate's degree in business from Jamestown
3 Business College. I am married. My spouse works
4 at Inscape, which is a cubicle wall company. He's
5 been there for 15 years. I have one child who is
6 ten.

7 No military status. Reading habits, I read the
8 Post Journal and Harry Potter books. TV viewing
9 habits, usually I watch sitcoms and Ghost
10 Adventure, and stuff like that. Really no hobbies.
11 And I'm a treasurer of our Busti Fire Department.

12 THE COURT: Okay. Are you a volunteer
13 fireperson?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Just treasurer.

16 PROSPECTIVE JUROR: Yeah.

17 THE COURT: Okay. Your company is chuck
18 light?

19 PROSPECTIVE JUROR: Truck-Lite.

20 THE COURT: Okay. What is the business of
21 Truck-Lite?

22 PROSPECTIVE JUROR: We manufacture
23 vehicular safety lighting on the big semi trucks.

24 THE COURT: Okay. Thank you very much.
25 If you pass that on, please.

1 PROSPECTIVE JUROR: I'm 24 years old. I
2 live in Blasdell, New York. I own my own house. I
3 am employed with Waste Management. I'm a mechanic.
4 I've been there for a little over a year now. I
5 have two associate's degrees, one automotive
6 technology and one in automotive body repair. I'm
7 single. I have one daughter, three months old.

8 No military. I read Four Wheel magazine, some
9 news every once in a while, not too often. A lot
10 of service manuals. I watch Family Guy, funny
11 shows like that, some documentaries every once in a
12 while. Interests and hobbies, I like hunting,
13 sports. I used to be a professional timber sport
14 athlete in Alaska. I enjoyed doing that. Anything
15 outside. I'm part of West Falls Conservation
16 Society.

17 THE COURT: Okay. Good. Thank you very
18 much. Number 5, please.

19 PROSPECTIVE JUROR: I'm 54 years old. I
20 live in East Aurora, New York. I own my own home.
21 I'm employed by the research foundation of the SUNY
22 system, division called the Center for Development
23 of Human Services. There I work as a database
24 administrator and statistician. I worked there for
25 15 years. I have degrees from SUNY in

1 pharmacokinetics and biochemical pharmacology. I'm
2 married. My wife is a pharmacist, and she owns her
3 own pharmacy with a business partner. We have two
4 children, 13 and 15.

5 I did not serve in the military. I like
6 Buffalo News, and New York Times, Washington Post,
7 science fiction. TV would be science fiction,
8 dramas, comedies. I like to ski, play tennis,
9 boating, and that's it.

10 THE COURT: Okay. By occupation and
11 profession both you and your wife have some
12 association with drugs, legal.

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Any consequence to that, I
15 mean, in terms of your ability to be fair and
16 impartial here in this case?

17 PROSPECTIVE JUROR: No. I mean, I don't
18 have any problem with that.

19 THE COURT: Okay. All right. Thank you
20 very much.

21 PROSPECTIVE JUROR: I'm 43. I live in
22 West Seneca. I own my own home. I currently work
23 at Globe Metallurgical in Niagara Falls, New York.
24 They manufacture silicon. I run the quality
25 control lab there, and I run the safety program

1 there. I've been there for almost a year. My
2 formal education, I have a B.S. in biology from UB.
3 I have a M.S. in applied molecular biology from
4 University of Maryland, Baltimore County. I'm
5 married. My loving wife is a homemaker. She
6 raises our four children who are now 20, 16, 14 and
7 9.

8 I've never served in the military. I read
9 mostly scientific journals and trade journals for
10 safety. I watch very little TV. And I -- when I
11 do watch TV, it's usually sports-related, and I
12 need the red, white, and blue of the Buffalo Bills.

13 THE COURT: Well, you say that now,
14 because they just won on Sunday. But what about
15 this coming weekend?

16 PROSPECTIVE JUROR: This coming weekend I
17 think -- although I firmly believe that they will
18 end up being clearly ten and six in the playoffs.
19 I believe that if they get to Peyton Manning early
20 and throw him off his game, we have a chance.

21 THE COURT: Yeah, but Marcell Dareus has a
22 hip injury.

23 PROSPECTIVE JUROR: They just say that.
24 You don't really know, you know, you got to have
25 faith.

1 THE COURT: All right. All right. We
2 hear you. Now we know your true colors. Good
3 enough.

4 Number 7, let's go. Thank you.

5 PROSPECTIVE JUROR: I'm 66 years of age.
6 I live in Lockport. I own my own home. I am
7 employed by the Department of Veterans Affairs in
8 the education division. I process enrollments and
9 original claims for education benefits for
10 veterans. I have been there five years and nine
11 months. I graduated from the University of Buffalo
12 with a bachelor's degree. I'm single. I have two
13 children, 43 and 39. They are one -- my youngest
14 is with at the Department Homeland Security Customs
15 and Border Protection, and my oldest is a project
16 manager for C2HM Hill.

17 I have no military experience. I read a lot of
18 print, three newspapers, rarely a magazine.
19 Buffalo News, New York Times, the Washington Post,
20 a few publications online, the Christian Science
21 Monitor. I view PBS regularly, other TV not so. I
22 play tennis. I ride my bike. I hike. And I'm not
23 in any clubs or organizations at this minute.

24 THE COURT: Okay. I think it's your
25 youngest of the two with Homeland Security.

1 Locally or --

2 PROSPECTIVE JUROR: Yes. He's on the
3 Niagara Frontier bridges, mainly
4 Lewiston-Queenston.

5 THE COURT: Okay. And how long has he
6 been with Homeland Security?

7 PROSPECTIVE JUROR: Six years. Prior to
8 that he was Army for eight years. Came out an
9 officer.

10 THE COURT: All right. I take it you're
11 close to your son?

12 PROSPECTIVE JUROR: Yes, I am.

13 THE COURT: Okay. And --

14 PROSPECTIVE JUROR: He's the father of
15 three of my favorite grandchildren.

16 THE COURT: All right. And how many
17 favorite grandchildren do you have?

18 PROSPECTIVE JUROR: Five. The other two
19 favorites live in Ohio with their father.

20 THE COURT: Okay. As far as your son is
21 concerned, that's technically law enforcement.

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: All right. Does that in any
24 way incline you one way or another in this case?

25 PROSPECTIVE JUROR: No.

1 THE COURT: All right. You can be fair
2 and impartial?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: And you can follow my
5 instructions and not discuss matters with your
6 sons?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: That relate to this trial at
9 least until it's over with?

10 PROSPECTIVE JUROR: Correct.

11 THE COURT: You will take this matter
12 seriously?

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: Okay. And you have no
15 preconceived notions in terms of what the evidence
16 is or isn't in this case and how it should come
17 out?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Okay. Thank you. Number 8.

20 PROSPECTIVE JUROR: Okay. I'm 56 years
21 old. The I live in North Tonawanda. I live above
22 my business, over a tavern, which I own. It's a
23 family business. It's been in my family since
24 1945. It was my grandmother and my father, now me.
25 And I've been working there 32 years. I'm the

1 owner. I do the ordering. I do the paperwork.
2 High school graduate. Single father of two,
3 ages -- two boys, 18 and 15. My one son is going
4 to NCCC for law enforcement. My other son, 15, is
5 still in high school.

6 Was not in the military. Reading habits,
7 pretty much the newspapers. I like sports
8 magazines. TV habits, sports. I like Perry Mason
9 and them guys. I like watching that. Outside
10 interests, I like to golf, fish, go to sporting
11 events. And I'm in no organizations.

12 THE COURT: Now you mentioned you live and
13 work over a tavern?

14 PROSPECTIVE JUROR: Yes, that.

15 THE COURT: Is that your business, the
16 tavern?

17 PROSPECTIVE JUROR: Yes, it is, sir.

18 THE COURT: Okay. So all of the ordering
19 and everything that you do and made reference to is
20 in connection with the tavern business?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Okay. Thank you very much.
23 Okay. Number 9, please.

24 PROSPECTIVE JUROR: I'm 27. I live in
25 Niagara Falls. I own my home. I'm in the

1 bricklayers union, about eight years. Just went
2 through apprenticeship program with them. I'm
3 single. I have a three-year-old boy.

4 No military experience. Just read a couple
5 magazines. Watch Discovery and History Channel.
6 Like to fish, and I belong to a masonic
7 organization.

8 THE COURT: Okay. Thank you very much.
9 Pass that on to 10, please.

10 PROSPECTIVE JUROR: I'm 53 years old.
11 Stay in Buffalo area. Own my own home. Actually
12 work with National Grid, the electric company.
13 Been there 17 years. Actually I'm the service rep
14 dealing with outages, fire calls, things like that.
15 My wife is basically a homemaker right now. She's
16 not working. Education, high school graduate, some
17 college and certification programs. Got six
18 children, two by marriage and four biological.

19 No military service. Not much reading. A lot
20 of TV. Different things on TV, doesn't matter,
21 sitcoms, movies, whatever. Depends on how I feel
22 for the night. And I'm in no clubs, groups, or
23 organizations.

24 THE COURT: Okay. You have six children
25 you said. Any of them -- I don't know what their

1 ages are, but are they employed?

2 PROSPECTIVE JUROR: Yes. Let's see, the
3 oldest is not employed right now. The second works
4 in a nursing-type home. And the others are not
5 working at this time. Aging from 23 to 29.

6 THE COURT: Okay. All right. Thank you
7 very much.

8 PROSPECTIVE JUROR: You're welcome.

9 THE COURT: All right. Number 11.

10 PROSPECTIVE JUROR: I'm 28. I live in
11 Cheektowaga. I rent my home or rent my apartment.
12 I work at Geico Insurance. I'm currently in the
13 customer service department. Been there almost
14 four years. High school graduate. Currently
15 single or engaged. Have one child who is nine.

16 Never been in the military. TV, some reality
17 TV, the news occasionally, comedy sitcoms -- TV
18 sitcoms, comedy. Other interests, cooking,
19 traveling, no organizations.

20 THE COURT: All right. Did you ever meet
21 the gecko?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: You did?

24 PROSPECTIVE JUROR: All the time. Yeah.

25 THE COURT: Okay. Thank you. Number 12,

1 please.

2 PROSPECTIVE JUROR: I am 42 years old. I
3 live in Blasdell. I own my home. I work for
4 General Mills. I work for the plant manager in
5 employee and community relations, and I have been
6 there for about three years. I have a master's
7 degree in public administration. I am married. My
8 husband is a deputy sheriff. We have three
9 children 18, 14, and 8. I also have a 15-year-old
10 exchange student living with me this year.

11 No military background. I read nonfiction and
12 a lot of cookbooks. Don't watch a whole lot of TV.
13 I just do a lot of cooking, and mostly my hobbies
14 revolve around my children, so I don't have time
15 for hobbies. And other than our church, we're
16 pretty involved in our own things, so --

17 THE COURT: Okay. Thank you. As far as
18 the exchange student, from what country?

19 PROSPECTIVE JUROR: She is -- actually
20 she's Vietnamese, but she was born and raised in
21 Germany.

22 THE COURT: Okay. And your husband has
23 been with the sheriff's department for how long?

24 PROSPECTIVE JUROR: About three years.

25 THE COURT: Okay. What is his assignment?

1 PROSPECTIVE JUROR: He is at the holding
2 center.

3 THE COURT: Okay. And do you talk to him
4 about his work, his daily activities?

5 PROSPECTIVE JUROR: I honestly don't see
6 him that much. We work alternating shifts, so we
7 see each other for just maybe 30 minutes or so in
8 the morning other than his days off. But try not
9 to talk about work.

10 THE COURT: Okay. And what did he do
11 before he was a deputy sheriff?

12 PROSPECTIVE JUROR: He was -- he was a
13 retail manager.

14 THE COURT: Okay. And can you follow my
15 instructions and not discuss this case with him if
16 you were selected?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: All right. Do either you or
19 both, you and your husband, or just your husband
20 have a lot of law enforcement friends?

21 PROSPECTIVE JUROR: He has his buddies
22 from work, but he doesn't hang out with them
23 outside of work, so no.

24 THE COURT: Is there anything about the
25 nature of his employment and the fact that he is

1 law enforcement, if you will, cause you to think
2 you would have any difficulties being fair and
3 impartial in this case?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Okay. Thank you very much.
6 Number 13.

7 PROSPECTIVE JUROR: I am 43. I live in
8 the city of Tonawanda. We own our own home. I'm
9 employed by Beechwood Nursing Home. I'm an
10 administrative assistant. Been there for ten
11 years. I have an associate's degree in business
12 administration. I'm married. My spouse owns an
13 electrical business. I have a son, who is 13, and
14 two stepchildren that are 25 and 29. They both
15 work for my husband at the electrical business.

16 Never in the military. Read an occasional
17 novel, newspaper occasionally. Not a whole lot of
18 TV, usually whatever my son or husband are
19 watching. And outside interests, camping and my
20 son's sports.

21 THE COURT: Okay. What is the name of the
22 electrical business?

23 PROSPECTIVE JUROR: Brady Electric.

24 THE COURT: Is that located here in --

25 PROSPECTIVE JUROR: North Tonawanda.

1 THE COURT: North Tonawanda. Okay. Thank
2 you very much.

3 PROSPECTIVE JUROR: Hi. I'm 57 years old.
4 I live in Tonawanda, and I own my own home. I work
5 for Caregivers Choice. I'm a caregiver. And my
6 husband is retired. I'm married. I have three
7 kids, six grandchildren.

8 I've never been in the military. I like to
9 watch Fox News or comedies. Go from one extreme to
10 the other there. And my husband and I teach
11 stained glass at Sweethome High School. And I do
12 have retired Buffalo police. They're my
13 brother-in-law and sister-in-law.

14 THE COURT: Does that create any
15 difficulty for you being fair and impartial in this
16 case?

17 PROSPECTIVE JUROR: Just do the best I
18 can.

19 THE COURT: All right. Well, but --

20 PROSPECTIVE JUROR: I'm sorry.

21 THE COURT: I know you'll do -- well, you
22 tell me you'll do your best that you can. But as
23 you sit there, do you believe that you are fair
24 and -- will be fair and impartial in this case?

25 PROSPECTIVE JUROR: Yeah.

1 THE COURT: Okay. As far as your
2 husband's prior employment before he retired, where
3 was that?

4 PROSPECTIVE JUROR: National Fuel Gas.

5 THE COURT: National what?

6 PROSPECTIVE JUROR: National Fuel Gas.

7 THE COURT: Okay. As far as your sitting
8 as a juror, you are not predisposed one way or
9 another in this case?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Okay. Thank you.

12 PROSPECTIVE JUROR: I'm 59 years old. I
13 live in the Lovejoy area of Buffalo. I own my own
14 residence. I am the telephone operator for the
15 Board of Ed. High school graduate, some college.
16 I'm married. My husband is an utility worker at --
17 well, they do the Meals-on-Wheels thing. I have
18 one child. She's 40. She has lupus, so she's no
19 longer employed. She was employed by Unyts.

20 No military status. Reading habits, I'm like
21 him, a James Patterson fan. TV viewing habits, I
22 love the sitcoms. I love the true drama TV and The
23 Voice. Outside interests, I like to travel and
24 cruise, and I do not belong to any clubs or
25 organizations.

1 THE COURT: You're with the Board of
2 Education, the city of Buffalo?

3 PROSPECTIVE JUROR: Correct.

4 THE COURT: Okay. Got to be interesting,
5 right?

6 PROSPECTIVE JUROR: Very.

7 THE COURT: Thank you.

8 PROSPECTIVE JUROR: Hello. I'm 33 years
9 old. I live in North Buffalo. I own my own home.
10 I work at People Incorporated, where I'm a program
11 manager. I help to create and organize services
12 for mentally disabled adults. I've been there for
13 12 years. I have an associate's degree. I am
14 married. He's retired from GM. I have two
15 children, 13 and 15, so they are not employed.

16 I have no military background. I don't watch a
17 lot of TV, but I do enjoy movies and series, you
18 know, things like that. I enjoy reading, baking,
19 cooking, camping, hiking. I do some art. I am a
20 Little League coach for KT for cheerleaders.
21 They're eight and nine years old.

22 THE COURT: All right. That's a lot. Let
23 me ask you one question, though. Your associate's
24 degree in what?

25 PROSPECTIVE JUROR: CAD, computer aided

1 drafting.

2 THE COURT: Okay. Thank you. Okay.

3 Number 33.

4 PROSPECTIVE JUROR: I'm 55 years old. I
5 work at Waterfront Health Care Center for 35 years.

6 THE COURT: I'm sorry, where?

7 PROSPECTIVE JUROR: Waterfront Health Care
8 Center.

9 THE COURT: Okay. Thank you.

10 PROSPECTIVE JUROR: For 35 years. And I
11 rent. Graduated out of 12th grade. Sorry. And I
12 have four kids, 25, 26, 36, and 38. And three are
13 working and one not.

14 And I love watching TV. I watch Criminal
15 Minds, CSI. I love to bowl. I've been bowling for
16 27 years. And one of my kids work at the
17 tollbooth, which she got three jobs. She is 25
18 years old.

19 THE COURT: Where does she work again, I'm
20 sorry.

21 PROSPECTIVE JUROR: She work at the
22 tollbooth, and she got her own cleaning business,
23 and she work at this place on Dick Road. And my
24 son, he's 26. He works for the agencies. And my
25 other daughter, she's not working. My oldest work

1 for People, Inc.

2 THE COURT: Okay. Before you give that,
3 Prospective Juror number 16, you work at People,
4 Inc. as well, right?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: All right. Do you know
7 Prospective Juror number 16?

8 PROSPECTIVE JUROR: It's a big company.
9 No.

10 THE COURT: Neither one of you know each
11 other?

12 PROSPECTIVE JUROR: My daughter works for
13 People, Inc.

14 THE COURT: Oh, okay.

15 PROSPECTIVE JUROR: Oldest daughter.

16 THE COURT: Okay. But as far as you're
17 concerned, you don't know number 16, even though
18 your daughter works at People, Inc.

19 PROSPECTIVE JUROR: Right.

20 THE COURT: If I didn't confuse you now,
21 we're going move that over anyway. Number 18,
22 please.

23 PROSPECTIVE JUROR: I'm 34 years old. I
24 live in Niagara Falls. I live with my mother, so
25 she owns the residence. I'm a typist at

1 Westminster Community Charter School, which is like
2 an administrative assistant. I've a bachelor's in
3 psychology at University of Buffalo, a bachelor's
4 in social sciences interdisciplinary with a
5 concentration in community mental health, and a
6 minor in African-American studies.

7 THE COURT: Does all that appear on your
8 degree?

9 PROSPECTIVE JUROR: Yeah, it was a dual
10 degree, yes. Single. I have no children.

11 I've never been in the military. I read the
12 Bible, Huffington Post, The Root, a lot of
13 different magazines, BPC, Daily Mail, UK. I watch
14 not that much TV, but it's either Christian TV or
15 like NBA on TNT, Castle, just random stuff,
16 documentaries. And I like to read, travel, learn
17 new languages. And I haven't been in an
18 organization for a while. The last one was the
19 deaf ministry at True Bethel Church.

20 THE COURT: Castle's not on Christian TV,
21 is it?

22 PROSPECTIVE JUROR: No, it's not.

23 THE COURT: So you make an exception every
24 once in a while?

25 PROSPECTIVE JUROR: For Castle you have

1 to. Thank you.

2 THE COURT: All right. Thank you.

3 Nineteen, please.

4 PROSPECTIVE JUROR: I'm 34 years old. I'm
5 from Getzville. I do own my own home. I am a
6 money laundering investigator for M & T Bank. I
7 have my bachelor's degree. I've been with the bank
8 for ten years. I'm married. My husband also works
9 for M & T Bank as a money laundering investigator.
10 I have one stepdaughter, who is eight.

11 And I'm never been in the military. Not a big
12 reader. For TV, I like mystery shows, and I play
13 golf and take my dogs to the park.

14 THE COURT: Okay. As part of your job in
15 terms of money laundering at M & T, do you come in
16 contact with law enforcement?

17 PROSPECTIVE JUROR: They can contact us
18 after we file suspicious activity reports. They
19 can come to us with a subpoena and I'd have to
20 provide documents.

21 THE COURT: Okay. So you're kind of
22 monitoring law-enforcement activities or related
23 activities. Do you have any concern that you might
24 not be able to be fair and impartial in this case?

25 PROSPECTIVE JUROR: No, not at all.

1 THE COURT: Okay. Thank you. Twenty,
2 please.

3 PROSPECTIVE JUROR: I'm 47. I live in
4 Parkside, North Buffalo. I own my own residence.
5 I work for Northrop Grumman. We are a defense
6 contractor. I worked there for 15 years. They're
7 located in Williamsville. I'm a high school
8 graduate. I've had some college. My husband is
9 a -- works for Home Depot part time. I have three
10 children, 15, 11, and 9.

11 I'm not been in the military. I read the
12 Sunday edition of the Buffalo News primarily. TV,
13 I don't really watch a whole lot, mostly Cartoon
14 Network because it's on constantly. I belong to
15 IAAP, which is an administrative professional
16 organization. I think that's it.

17 THE COURT: I'm sorry, but I didn't catch
18 what your husband's employment is, please?

19 PROSPECTIVE JUROR: He works at Home Depot
20 part time.

21 THE COURT: Okay. And your employment?

22 PROSPECTIVE JUROR: I'm employed by
23 Northrop Grumman. It's a defense contractor.

24 THE COURT: Okay. What do you do?

25 PROSPECTIVE JUROR: I'm an administrative

1 assistant. I worked there for 15 years.

2 THE COURT: What does an administrative
3 assistant do?

4 PROSPECTIVE JUROR: Pretty much
5 everything, typing and answering phones, scheduling
6 meetings, and so forth.

7 THE COURT: Okay. All right. Thank you
8 very much. Twenty-one, please.

9 PROSPECTIVE JUROR: I'm 51 years old. I
10 live in the Town of Boston. I own my own home.
11 I'm employed by the Small Business Administration
12 Office of Disaster Assistance. I'm a reservist,
13 which means I'm only called in in large disasters,
14 so I'm currently laid off. I've worked there for
15 two years. Prior to that I worked in customer
16 service, human resources and training at J.C.
17 Penny. I have a bachelor's degree in biology and a
18 master's degree in business administration. I am
19 married. My husband is retired. He was a general
20 manager at National Fuel.

21 I have two other children, a daughter, 24, who
22 works for a physical therapy office and is going
23 back to school for physical therapy. I also have a
24 son, 18, who is in high school, and he works part
25 time for the town recreation department.

1 I have not been in the military. I read some
2 mystery novels. I read things on the Internet,
3 news, and sports. I watch some TV, anything from
4 Seinfeld reruns to Fox News, to home improvement
5 shows. I like to swim. I also like to walk in
6 Chestnut Ridge. And I'm a volunteer at St. Luke's
7 Mission of Mercy, and I'm active in my church.

8 THE COURT: Your work with respect to the
9 SBA and disaster assistance, were you called during
10 the snowstorm?

11 PROSPECTIVE JUROR: No. We process
12 disaster loans. So we are waiting to see if FEMA
13 comes in, and then if it's a certain level, where
14 we can make loans to business, homeowners and
15 renters. If the full-time staff can't handle the
16 workload, then they bring us in. We help customers
17 over the phone with filling out the applications.

18 THE COURT: Okay. All right. Thank you
19 very much. Number 22, please.

20 PROSPECTIVE JUROR: I'm 53. I live in
21 Westfield, New York. I own my own house. We do.
22 I work for FairPoint Communications, which is a
23 telephone company. I'm a e911 coordinator and
24 office employee basically. Been there for 15
25 years. I have a bachelor's in computer science. I

1 am married. We have one daughter who is 24. She's
2 a travel occupational therapist. My husband works
3 for New York State DOT.

4 Not been in the military. I read a lot of
5 books, historical novels. I watch the drama TVs.
6 I like to camp and four-wheel, and I don't belong
7 to any organizations.

8 THE COURT: Okay. Did you say your
9 daughter is a travel occupational therapist?

10 PROSPECTIVE JUROR: Correct.

11 THE COURT: What is that?

12 PROSPECTIVE JUROR: It's like a physical
13 therapy, but she teaches people how to redo things
14 if they're physically unable to.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR: She travels. She goes
17 from hospital to hospital, or place to place.

18 THE COURT: Okay. That's -- thank you
19 very much. I appreciate it. All right.
20 Twenty-three.

21 PROSPECTIVE JUROR: I am 22 years old. I
22 live in the village of Akron. I rent my own home.
23 I work at SkyZone Buffalo. I am the lead court
24 monitor. I've been there for over a year. I have
25 an associates from NCCC in computer aided drafting,

1 and I'm currently in my first year at UB working on
2 a bachelor's for management information systems. I
3 am single.

4 No military. No reading habits. TV habits are
5 comedy, drama, reality. I play for the dodgeball
6 team at SkyZone, and I ski. And no clubs or
7 groups.

8 THE COURT: Okay. Thank you.
9 Twenty-four, please.

10 PROSPECTIVE JUROR: I am 24 years old. I
11 live in Cheektowaga. I rent my own home. I work
12 at Ford Gum and Machine Company. I'm a lead man
13 there. I've been there four years. I graduated
14 high school. I am currently single. I have no
15 children. I very seldom watch TV. I play football
16 outside. I'm not in any clubs or organizations
17 right now.

18 THE COURT: Okay. Thank you very much.
19 Twenty-five, please.

20 PROSPECTIVE JUROR: I am 48. I live in
21 Lackawanna. I rent. I work at Valvoline.
22 Mechanic. We do oil changes, transmission flushes,
23 New York State inspection. I graduated high
24 school. Some college. I am single. I have two
25 children, 20 and 23. My oldest daughter works and

1 goes to college, and the younger daughter goes to
2 college.

3 I have not been in the military. I watch
4 action movies, the news. Let's see, I fish. And I
5 don't belong to any groups or organizations.

6 THE COURT: Okay. Your oldest daughter,
7 where does she work? You said she works and goes
8 to school.

9 PROSPECTIVE JUROR: She works at American
10 Legion.

11 THE COURT: Okay. And what does she do
12 there?

13 PROSPECTIVE JUROR: She is an
14 administrative assistant, sort of.

15 THE COURT: Okay. Thank you. All right.
16 Twenty-six, please.

17 PROSPECTIVE JUROR: I am 36 years old. I
18 live in Lackawanna. I rent. I am a mechanic for a
19 pharmaceutical company. I've been there for ten
20 years. I graduated from Orchard Park. I'm single.
21 No children.

22 Never been in the military. Don't do much
23 reading. Don't watch too much TV, but when I do
24 it's like world history, History Channel kind of
25 stuff. And I like to ride dirt bikes and work on

1 motorcycles. And I currently belong to no clubs or
2 groups.

3 THE COURT: All right. Do you own a
4 motorcycle?

5 PROSPECTIVE JUROR: I have a couple dirt
6 bikes, but nothing street legal.

7 THE COURT: Okay. Thank you very much.
8 Twenty-seven.

9 PROSPECTIVE JUROR: I'm 33. I live in
10 Cheektowaga. I own my home. I am employed by
11 Buffalo State College as a secretary in the art
12 education department. I've been there for ten
13 years. I have a master's degree in creative
14 studies from Buffalo State College. I'm married.
15 My husband is a toll collector for the Thruway in
16 Waterloo full time. I have two children. They are
17 five and three.

18 I have no military background at all. Reading
19 habits, I like reading novels, Sunday Buffalo News,
20 Facebook. TV viewing habits are whatever cartoons
21 my children have on at the time. Outside interests
22 or hobbies, sporting events, music, concerts, those
23 types of things. No clubs or organizations or
24 anything like that.

25 THE COURT: Okay. Thank you very much.

1 Twenty-eight, please.

2 PROSPECTIVE JUROR: I'm 66 years old. I
3 live in Hamburg, New York. I rent an apartment.
4 I'm retired. I retired about five years ago.

5 THE COURT: From where?

6 PROSPECTIVE JUROR: The last place I
7 worked, actually, was the Town of Hamburg. I cut
8 grass for them. My principal occupation was as an
9 accountant. I worked in a bank. I've worked for a
10 wholesale seed distributor. I worked for an
11 insurance company. I have an undergraduate degree
12 from Notre Dame in liberal arts. I've got a
13 master's in business from Canisius College, and I
14 have a master's in school counseling from St.
15 Bonaventure, which I never used. I am divorced. I
16 have four children. They range in age from 44 to
17 30. They are all employed. Two of them are local.

18 I have never served in the military. I do
19 quite a bit of reading. I read mostly history,
20 politics, current events. I break it up with an
21 occasional novel. And I watch pretty much what I
22 read on television. I watch a lot of news, talking
23 heads, sports. My principal hobby is golf. I play
24 as much golf as I can. And I'm not a member of any
25 organization.

1 THE COURT: All right. Your four
2 children, they're all employed. What do they do?

3 PROSPECTIVE JUROR: Let's see. My oldest
4 is an editor for an electrical consulting company.
5 Second one owns his own company. He does lawns in
6 the summer and plows in the winter. And let's see,
7 the third one works for a company that develops
8 programs for the homeless, and the youngest
9 currently works for Geico, but he will be admitted
10 to the bar, I believe it's January 14th of next
11 year. God willing.

12 THE COURT: I'm sorry?

13 PROSPECTIVE JUROR: God willing.

14 THE COURT: Okay. Keep the fingers
15 crossed, I know. Okay. Thank you. Twenty-nine,
16 please.

17 PROSPECTIVE JUROR: I am 38 years old. I
18 live in Cheektowaga. I own my home. I'm currently
19 employed at Children's Hospital in Buffalo. I'm a
20 registered nurse. I have an associate's degree.
21 I've been there 14 years. I am married. My
22 husband owns his own Allstate agency. I have two
23 children, 7 and 11 years old.

24 I've never been in the military. I do not have
25 much time to read. My TV viewing is sitcoms and

1 what my children watch. I have little time for
2 hobbies, and do not belong to any clubs or groups.

3 THE COURT: Okay. Thank you very much.
4 Thirty-four, please.

5 PROSPECTIVE JUROR: I'm 64 years old. I
6 live in the Cheektowaga area. I own my own home.
7 I'm employed by the Catholic Health Systems for
8 over 40 years. I work as an activities aid. High
9 school graduate. I'm not married, single. I have
10 two children, 42 and 44. They both work at the
11 Buffalo News.

12 I've never been in any branch of service. And
13 TV viewing, I watch a variety of shows on TV. And
14 I don't have any outside interest. And I belong to
15 a birthday club.

16 THE COURT: Okay. Your employment with
17 the Catholic Health System, are you employed at
18 this new facility on -- downtown?

19 PROSPECTIVE JUROR: No, not at the new
20 facility, but they have several branches, you know.

21 THE COURT: Okay. Thank you very much.
22 Thirty-one.

23 PROSPECTIVE JUROR: I am 46 years old. I
24 live in Buffalo. I rent my house. I work for Home
25 and Stay Senior Care. I'm a caregiver. I have a

1 high school diploma. I'm engaged. I have three
2 children. 26-year-old son, he doesn't --

3 THE COURT: Can you move the microphone up
4 a little bit, please?

5 PROSPECTIVE JUROR: Okay. Thank you.
6 Twenty-six-year-old son, he doesn't live with me.
7 Twenty-four-year-old daughter, she doesn't live
8 with me. Seventeen-year-old son, he's a senior
9 now. I adopted him from a month and a half.

10 No military status. Sometime I read the
11 newspaper. I like watching Cops, Forensics, the
12 news. I attend church and I'm a member of the
13 usher board. That's it.

14 THE COURT: Okay. Thank you very much.
15 Thirty-two.

16 PROSPECTIVE JUROR: I'm 62 years old. I
17 live in the Town of Amherst in New York. I own my
18 own residence. I am employed by Erie County
19 Department of Social Services. I work in foster
20 care. I'm a senior case worker. I've been there
21 21 years. I have a BA in art. I'm divorced. I
22 have a son who has just graduated medical school,
23 and he's begun his residency at Cleveland Clinic.

24 I've never been in the service. I read the
25 Buffalo News daily, Art Voice. I rarely watch

1 television except on occasion with my elderly
2 mother. I enjoy gardening and my pets, and I don't
3 belong to any organizations.

4 THE COURT: Thank you. Everybody doing
5 okay? Chris, let's take 15 minutes, and then we'll
6 begin the selection process. We'll give you a
7 break. Come back in at 12:30, and we'll continue
8 and wrap things up in relatively short order.
9 Thank you.

10 (Prospective jurors left the courtroom.)

11 THE COURT: Before we take the break, any
12 challenges for cause?

13 MR. DUSZKIEWICZ: No.

14 MR. MUSITANO: I don't have any challenges
15 for cause.

16 THE COURT: Okay. Then we'll start
17 preemptions, round one, when they come back at
18 12:30.

19 (Short recess was taken.)

20 (Prospective jurors entered the
21 courtroom.)

22 THE COURT: Welcome back, ladies and
23 gentlemen. Okay. The record will reflect that the
24 attorneys and parties and prospective jurors are
25 all back, present. Roll call waived.

1 We are going to start -- all of you that are in
2 the gallery waiting, please stay there for a little
3 bit. We're going to work with the first 32 and see
4 if we get a jury of 12 plus two alternates from
5 them. If we do, then everybody will be discharged
6 for the day. But just hang in with us right now.

7 We'll start the process. I'll explain to you
8 how it works, then I'll tell you a little bit about
9 what you can expect if you are selected and what
10 our work hours are and the like.

11 The system is what I referred to earlier as the
12 struck jury system, and it basically involves six
13 rounds so that the exercise of what we call
14 challenges are done on paper. And you'll see a
15 paper circulated, and the attorneys will then make
16 an entry if they choose to excuse anybody. Once I
17 get it, I will announce those that are excused. I
18 will not tell you who excused them. It will be an
19 excuse based on the information provided to me, and
20 then you can get up and go and leave your number
21 behind, and that will conclude your service.

22 We go through six rounds like that. And then
23 if we're successful in those six rounds, we should
24 have at least 12 of you ready to be seated. And
25 then we'll proceed with an additional round for

1 purposes of selecting the alternates.

2 Just so you know, if you're in that category of
3 prospective alternate jurors, the only distinction
4 is -- and it's significant to the extent that if
5 you're not moved up into a regular juror position,
6 you don't get to deliberate unless you're called
7 during deliberations to come on in. So, it's more
8 like a utility role. But it's essential that we
9 have backup in case anything weather-wise or
10 mechanical-wise or health-wise arises during the
11 course of trial or during the course of
12 deliberations. But otherwise, duties, obligations,
13 authority, et cetera, that's all the same. There's
14 no distinction between regular jurors and alternate
15 jurors.

16 And then once that's complete then I, if we
17 have 12 regular jurors, two alternates seated, then
18 I'll allow and let everybody that's in the backup
19 roles out there in the gallery leave for the day.
20 And then you'll be free to go, and probably won't
21 get called for a while. That's kind of the system
22 that we're working on right now. This is round
23 number one.

24 All right. Our workday basically we should be
25 starting at 9:00 o'clock. We'll work the morning,

1 we'll take a couple of breaks. But we'll work
2 until about quarter of one, 12:45. And we'll
3 resume again at 2:00 and go until about 4:45 or
4 5:00 o'clock in that neighborhood with appropriate
5 breaks from time to time. So it's a pretty healthy
6 workday.

7 For those of you that aren't familiar with
8 downtown Buffalo, there is a lot of lunch spots
9 around. If you're selected as a juror, you can
10 bring in lunch. Your home will be the jury
11 deliberation room. And there's a small
12 refrigerator in there. But nearby are a number of
13 very good, reasonably priced restaurants, and if
14 you're going to have lunch before you return home
15 today, just across the street from the building
16 down -- I'll fill you in. Okay. Hold on. Thank
17 you.

18 Okay. Round number one, Prospective Juror
19 number 23, you are excused. Thank you very much
20 for being with us. If you'd leave your number
21 behind. Appreciate your service today.

22 Also Prospective Juror number 14, you are
23 excused. Thank you very much for being with us.

24 And Prospective Juror number 21, you are
25 excused. Thank you very much for being with us.

1 So if you were to cross the street from the
2 courthouse building, you would basically run right
3 into that monster of the Statler Hotel building
4 that we still are keeping our fingers crossed will
5 develop into something. But just off to the left
6 of the building there's an extension of Mohawk
7 Street, and at the end of that street is the
8 Osteria restaurant. Very good homemade Italian
9 food, reasonably priced.

10 Immediately to the left of this building about
11 a half a block up is the New Era Cap Company. For
12 those sports enthusiasts, you know that all of the
13 professional sports teams, for practical purposes,
14 their hats and caps are made by New Era. There is
15 a cafeteria in that building. Very good,
16 reasonably priced.

17 If you continue up Delaware Avenue on the
18 right, there is the Sportsman Grill. I think
19 there's a Mexican restaurant called Salsarita,
20 something along those lines, just up a bit.

21 Heading off from the courthouse to the right,
22 all right, and you have to really cross Niagara
23 Square, the circle. Up Court Street is a very good
24 little Greek restaurant called Taki's. There is a
25 parking ramp right off to the right on Court

1 Street, and it's the Augsburg ramp, and in that
2 ramp is the Courtyard restaurant, very good mostly
3 Greek, but pretty wide range of food. And then
4 across from that is Dough Bois Pizzeria, and DuBois
5 restaurant. Good food, homemade, reasonably
6 priced.

7 So, I mean, there's probably ten restaurants in
8 very close proximity of the courthouse, and you'll
9 probably enjoy both if you decide to have lunch.

10 There is a lot of takeout places. There is Mighty
11 Taco. If you like the commercial, you can probably
12 enjoy your meal over there as well on Chippewa. So
13 within two blocks or so you've got ample places to
14 eat. We will give you enough time on a regular
15 court day to enjoy the cuisine and not get
16 indigestion and get back here in time. So it will
17 work out pretty well.

18 If you want to carry your own lunch, that's
19 fine. There are a few tables to sit around at
20 downstairs on the second floor, but there is no
21 cafeteria in the building.

22 So that's -- that's basically our work time
23 schedule. That's your lunch break schedule. There
24 may be a day or two where our schedule will change
25 a little bit. It might start at 8:30, and we'd go

1 until 1:00 o'clock, rather than the 9:00 o'clock
2 until 5:00 o'clock schedule. We'll keep you posted
3 on that as soon as I get the information that I'll
4 need, and we will keep everybody in the loop.
5 Okay. That's it.

6 We're on round number two of six, and then
7 we'll go from there.

8 I don't know how many of you have been in our
9 courthouse before, but it's a relatively new
10 courthouse. We just celebrated our third year of
11 being in this building. And, you know, I hope you
12 like it. You contributed to the building of the
13 building with your tax dollars. But it's a very
14 important building to us.

15 We built it and designed it so it reflected
16 what we came consider to be a transparency. We did
17 not want it to look like it was a fortress, like a
18 prison. We didn't want it to be intimidating. We
19 thought that everybody that enters the building
20 should respect the dignity of what we're trying to
21 accomplish, which is the full and fair
22 administration of justice, and when you walk in,
23 you should feel like everything is open. There's
24 no secrets. There's no behind closed doors. It's
25 right there subject to public scrutiny and that's

1 the way we envision justice and our system.

2 I think to a large measure we've accomplished
3 that. People seem to like it. The attorneys, for
4 the most part, find that it's a good building in
5 which to try cases. The technology generally works
6 pretty well.

7 Okay. This is round number two of six, and
8 excused will be Prospective Juror number 3. Thank
9 you very much for being with us. Please leave your
10 number behind. And we appreciate you being here.

11 And Prospective Juror number 5, you are
12 excused, sir. Thank you very much for being with
13 us.

14 And finally in round number two, Prospective
15 Juror number 33, you are excused. Thank you for
16 being with us. We appreciate it.

17 Okay. Ladies and gentlemen. This is round
18 number three of six. All right. Excused in this
19 round, Prospective Juror number 8, you are excused.
20 Thank you very much for being with us.

21 And Prospective Juror number 19, you are
22 excused. Thank you very much for being with us.

23 This will be round number four.

24 Okay. This will conclude round number four.

25 Prospective Juror number 6, you are excused. Thank

1 you very much for being here with us today.

2 And finally in this round, Prospective Juror
3 number 13, you are excused. Thank you very much
4 for being with us. Please leave your numbers
5 behind.

6 We will now begin round number five.

7 In our next to last round, this would be round
8 number five, Prospective Juror number 20 will be
9 excused. Thank you.

10 Okay. The completion of the first six rounds
11 includes the following individuals who will be
12 excused. Prospective Juror number 24, you are
13 excused. Thank you very much for being with us.

14 And Prospective Juror number 25, you are
15 excused as well. Thank you very much.

16 Okay. We are going to reposition some of you
17 so that we have you in seats that represent the
18 first 12. I'll announce where you have to go in
19 just a minute or two, and then we'll proceed with
20 the selection of our alternate jurors.

21 Thank you. Okay. Prospective Juror number 15,
22 if you would move up, please, to chair number
23 three, and you become Juror number 3.

24 Prospective Juror number 4, you stay where you
25 are.

1 And Prospective Juror number 16, if you would
2 leave your seat, please. You become and occupy
3 seat number five, and you are Juror number 5.

4 Prospective Juror number 18, we're going to
5 draft you to occupy seat number six, please.

6 Prospective Juror number 7, you remain there.

7 And Prospective Juror number 22, if you would
8 take seat number 8, please.

9 Okay. And then the second row, Prospective
10 Jurors number 9, 10, 11, and 12, you remain where
11 you are as the completion of the 12 jurors, okay?

12 All right. You will be our jury. I just want
13 to make sure that in the process of all of the
14 questioning and what you know about the case, which
15 is very little other than the indictment and
16 starting on Thursday, we shall go -- or will go
17 approximately a week. If there is any difficulty
18 with any of you serving as a juror in this case,
19 please let me know now. Everybody's good.

20 All right. Well, thank you. I appreciate it.
21 And we're looking forward to having you serve as
22 our juror in this case.

23 All right. Now we have a final round, and that
24 will be for the selection of alternate jurors. We
25 will select two of you. We have -- starting at 26

1 through 32, although 34 is out of sequence. You
2 will be our pool from which we select the final two
3 alternates.

4 To the group of the seven of you, any of you
5 not willing to serve as an alternate juror in
6 called upon in this case?

7 You're all okay. Okay. Let's see what we do.

8 Okay. Excused in this final round for
9 alternates would be Prospective Juror number 26,
10 you are excused. Thank you very much.

11 And Prospective Juror number 27, thank you very
12 much. I appreciate it.

13 All right. Prospective Juror number 28, you
14 will take the seat as the first alternate.

15 And Prospective Juror number 29, you will take
16 the seat as the second alternate.

17 Okay. Numbers 28 and 29, you are able and
18 willing to serve in this case as alternate jurors?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Yes. Okay. All right. We do
21 have our jury in this case. 34, 31 and 32, in just
22 one second we are going to excuse you. It came
23 down right to the wire. You almost made it. Don't
24 give up hope, all right?

25 All of you that remain in the gallery, we

1 really do appreciate your bearing with us today.
2 Thank you, all of you, for serving as prospective
3 jurors. I hope at least it was somewhat of a
4 positive experience for you. Be safe in your
5 travels home today. Please keep in mind that we'll
6 probably see you in the not too distant a future.
7 But again, thank you for all of your cooperation.
8 You've actually been terrific. Thank you very
9 much. Have a good day.

10 Before you leave though, you have to see
11 Miss Labuzzetta out in the lobby. She'll have to
12 complete your attendance records for today, and
13 then you're free to go.

14 From our jury standpoint, I want to tell you
15 that you're absolutely the best jury that I've had
16 this week, hands down. You're the only one, but
17 we're not going to tell you that necessarily. But
18 we're about to start seriousness, okay? As I
19 started out, the case is important to both sides.
20 And it requires that you be open-minded, fair and
21 impartial, respectful of each other. It takes a
22 little while to get used to people that obviously
23 you haven't known before. But you will be asked to
24 contribute in a very significant way. It may seem
25 like a small part, but it's very, very meaningful.

1 I know I speak from the perspective of the
2 third branch of government. But the separation of
3 powers and what the legislative branch does, what
4 the executive branch does, what the judicial branch
5 does, very, very important. These are difficult
6 times. We don't have a perfect country. But if we
7 continue to work at it, we get over obstacles and
8 we get over hurdles. But the procedures and the
9 processes that deserve respect, we have to maintain
10 those. That really includes jury service.

11 So I hope you will dedicate and commit yourself
12 to following the law. That's what I will be giving
13 you. To follow the instructions, don't discuss
14 this case, please, don't investigate it on your
15 own, don't go to the electronic media, social
16 media. You know, that's disrespectful of the
17 system, of your colleagues, the integrity of the
18 process.

19 If we lose faith in our justice system, that's
20 a serious setback, and really we should do
21 everything that we can to maintain the integrity of
22 that process. So I ask you to please honor that.

23 I think you'll find jury service, if you
24 haven't served as jurors -- have any of you served
25 as jurors before?

1 Okay. Anything about that service, though,
2 cause you to think you could not be fair and
3 impartial in this case? Okay. That's 1, 2, and
4 12, okay.

5 You will follow my instructions on the burden
6 of proof. The government has that burden beyond a
7 reasonable doubt. The defendant, Mr. Knighton in
8 this case, presumed innocent. That never changes
9 until you decide otherwise. And how does that
10 materialize, if at all? After you listen and keep
11 your minds open to all of the evidence, and only if
12 you unanimously determine that the evidence
13 satisfies you beyond a reasonable doubt does that
14 presumption of innocence leave the defendant in
15 this case.

16 So, please keep that in mind. We will see you
17 Thursday morning. We will start as close to
18 9:00 o'clock as we can. So try to allow yourself
19 sufficient time to get here, get situated, get to
20 know the area a little bit. And I'll try to make
21 sure that we get a full day in so that we don't
22 inconvenience you any more than we have to. We'll
23 watch the weather. We'll make accommodations for
24 that. Looks likes it's going to be a pretty good
25 run so far.

1 I will keep you posted on, not only the
2 schedule, but, you know, explanations of anything
3 that I think you need to know in terms of your
4 continuing service, in terms of what to expect
5 coming up in terms of the case that's on trial, and
6 just ask you please take care of yourself
7 health-wise. Be safe on your return here on
8 Thursday. And we look forward to seeing you.

9 Chris will take you to the jury deliberation
10 room. And that adjoins here, so that's where you
11 will spend a lot of your time during the course of
12 the day. You'll assemble downstairs on two where
13 you normally were today. But then you will then
14 return to your home, which is the jury deliberation
15 room, and you can leave your lunch there. You
16 can -- you know, we'll be addressing you on breaks
17 from there. When you go to lunch and return, you
18 come back to the jury assembly room on two, and
19 then we bring you up here. Okay. That will be
20 your traffic pattern for the next few days starting
21 on Thursday. Thank you very much. And that's it
22 for the day. Okay, if you will go with Chris.

23 (Jury excused from the courtroom.)

24 THE COURT: Okay. I expect that your
25 opening statements will not be overly long.

1 MR. MUSITANO: Mine definitely will not
2 be.

3 MR. DUSZKIEWICZ: No, I wouldn't expect
4 that, Judge.

5 THE COURT: Okay. And secondly, you will
6 provide day-in-advance notice of the witnesses that
7 you expect to call to Mr. Musitano?

8 MR. DUSZKIEWICZ: Judge, just for the
9 record, I already indicated to your court reporter
10 earlier today, and I don't know whether that was
11 conveyed to the Court, that we're probably going to
12 call five witnesses. I added another witness with
13 a conversation I had during the break. I can name
14 those witnesses. I think there's only going to be
15 six.

16 THE COURT: You want to do that?

17 MR. DUSZKIEWICZ: If I can have Michelle's
18 sheet, I'll tell you what I told her previously.

19 THE COURT: And, Mr. Musitano, if you take
20 notes.

21 MR. DUSZKIEWICZ: I expect we're going to
22 call Investigator Doug Davis.

23 THE CLERK: Designate them by numbers.

24 MR. DUSZKIEWICZ: Oh, I'm sorry. On my
25 list they're number one. On my list number five,

1 Senior Investigator Ron Yates; number six is Senior
2 Investigator Jose Figueirido; number nine is
3 Investigator Patrick DiPirro; and either 24 or 25,
4 that's Clinton Calloway or Gene Nana; and, of
5 course, number 30, who is William Valerio.

6 THE COURT: Okay. Thank you,
7 Mr. Duszkiewicz.

8 All right. Mr. Musitano, you're on notice.

9 MR. MUSITANO: Judge, is that the order
10 the government's calling them in?

11 MR. DUSZKIEWICZ: No, but I expect those
12 are all the first day's witnesses.

13 MR. MUSITANO: Thank you.

14 THE COURT: Okay. Now is that your entire
15 list, or is that your first day?

16 MR. DUSZKIEWICZ: I believe that's all
17 we're going to need.

18 THE COURT: Okay. Thank you. All right.
19 Mr. Knighton, we'll see you when?

20 THE DEFENDANT: Thursday.

21 THE COURT: Okay.

22 THE DEFENDANT: Thank you, Judge.

23 THE COURT: You bet.

24 * * * * *

25

CERTIFICATION

I certify that the foregoing is a
Correct transcription of the proceedings
Recorded by me in this matter.

s/Michelle L. McLaughlin
Michelle L. McLaughlin, RPR
Official Reporter
U.S.D.C., W.D.N.Y.